

# **UNIVERSITY OF NAIROBI**

**INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES  
(IDIS)**

**NEGOTIATED DEMOCRACY-A PANACEA FOR PERENNIAL  
ELECTION-RELATED CONFLICTS IN AFRICA? A CASE OF KENYA'S  
MANDERA COUNTY (2013 – 2017)**

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NAIROBI**

**21<sup>ST</sup> OCTOBER 2018**

**DECLARATION**

I declare that this research project is my original work and has not been presented for a degree in any other university.

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## **DEDICATION**

Roseline Luvate and Kassim Luvate my late mum and dad, as you rest with the angels know that you raised an upright man and all my childhood memories are populated by the wonderful things you did to me and my siblings.

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## ABSTRACT

Following the end of the Cold War, a third wave of multiparty democracy spread across Sub-Saharan Africa. The West in their quest to defeat the Soviet Union had embraced authoritarian regimes in Africa. But after the collapse of the USSR, the United States and other Western powers implored on their former allies in Africa to embrace multiparty democracy if they wanted to continue receiving aid from the Western controlled Bretton Woods Institutions. In opening up the democratic space, the hitherto Western allies in Africa were now required to abandon single party rule that had dominated the continent's political scene while at the same time observing periodic free and fair multiparty elections. This new requirement was intended to improve governance and accountability while at the same time hastening the democratization process. Despite this noble intention of entrenching majoritarian democracy in Africa, multiparty elections and political competition in general has brought with it increased cases of election-related conflicts that have resulted in loss of life and dire economic consequences. In some cases like Angola and Mozambique, the outcome was a prolonged civil war that spanned over a decade. In retrospect, most African States are multi-ethnic in nature and it is only a shared antipathy for the colonial masters that pushed the diverse nations to work together. Nation-states like Somalia too have witnessed political competition being reduced to bloody clan rivalries impeding realization of peace and stability.

This study therefore examines the potential of negotiated democracy in resolving election-related conflicts in Africa by examining a case study of Kenya's Mandera County between 2013 and 2017, where a unique form of community-driven negotiated arrangements were conceived in picking candidates to contest various elective positions to ensure amity and unity among the various clans of the dominant Somali ethnic group in the region. By examining the nature and dynamics of electoral democracy in Africa, this research has established that there is an inter-relationship between the return of multi-party politics in Africa and the perennial election-related violence. This can be attributed to a number of reasons not limited to politics of ethnicity, weak electoral institutions, external influence and a resurgent authoritarian wave. However, negotiated arrangements as seen through the case of Kenya's Mandera County have been successful in preventing election-related inter-clan violence. Consensus democracy in Mandera County operates within the traditional governance institutions where the highly respected elders drawn

from various sub-clans negotiate for elective posts and distribute them among the various sub-clans on a rotational basis.



# CHAPTER ONE

## 1.0 Introduction

This chapter covers the background of the study which highlights a brief overview of the subject area, the statement of the problem, research objectives, research questions and the justification. It will further operationalize key terms, highlight the literature reviewed, integrate the theoretical framework and research methodology and finally provide the chapter outline.

## 1.1 Background of the Study

Democracy simply refers to a rule by the people which implies that every individual participates in deciding how the society should be governed. This type of democracy can be termed as direct democracy and the best example where it was practiced was the ancient Greek City States.<sup>1</sup> On the other hand, what we have currently especially in the Western world can be described as representative democracy as citizens are too much involved in their own affairs to be directly involved. Therefore, they delegate this to politicians who serve as their representatives in the day to day running of government. Democracy even though an old concept tracing its roots to the ancient Greek city states, its understanding and application still raises confusion in the modern world. According to Abraham Lincoln, democracy is the rule of the people by the people for the people.<sup>2</sup> The main characteristics of an ideal democracy include a system where political parties compete for political positions and each of the main parties has a considerable chance of becoming the ruling party or the official opposition in the legislative body. In an ideal democracy, when a political party assumes office there is no impediment to the realization of its party manifesto. Another key attribute of an ideal democracy is the presence of a free and independent media as well as interest and pressure groups who check on the government even though they are not directly incorporated in policy formulation.<sup>3</sup> However, most democracies in

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<sup>1</sup>Democracy as we know it today is a great invention of the ancient Greeks the first people ever known to have implemented the notion that citizens of a community could directly govern themselves. The Greeks called it *demokratia* translated to mean ‘people power’. To the Greeks the sovereign power for the administration of public affairs was vested with the citizens and not a monarch, a tyrant or some influential wealthy individuals. Indeed there were elected leaders and representative bodies but did not dominate policy making like in the current representative democracies.

<sup>2</sup> Buccola, Nicholas (Ed), 2016, Abraham Lincoln and Liberal Democracy: American Political Thought, University Press of Kansas

<sup>3</sup> Cheeseman, Nic, 2015, Democracy in Africa: Successes, Failures and the Struggles for Political reforms, Cambridge University Press

the current world do not meet this criterion in its strict sense.<sup>4</sup> Although some scholars posit that the Westminster model as practiced in the United Kingdom<sup>5</sup> comes closer.

In a number of democracies, political decisions are made through consensus or some other form that allows for a give and take arrangement. The umbrella term given to such arrangements is negotiated or bargaining democracies. Negotiated democracy, according to Klaus Armingeon, is divided into three distinct types namely; consociational democracy<sup>6</sup>, corporatism<sup>7</sup> and systems of veto players.<sup>8</sup> Armingeon postulates that Consociational democracies arose in societies that were culturally segmented to the extent that no segment enjoyed the majority. He cites the Netherlands in the 1960s where the society comprised of three large groups; the Calvinists, Catholics and Socialists with no group commanding the majority.<sup>9</sup> These groups were, however, large enough to destabilize the state if their interests were ignored. They therefore adopted consociational democracy which works in a scenario of cooperation among the distinct groups because no group can pursue its interests without the support of the others.<sup>10</sup>

This concept of democracy as understood from the Western perspective has not been working properly in Africa especially when it comes to transitions of government through competitive elections. In fact, there are those who argue that Western democracy has failed in Africa<sup>11</sup>. Marxists argue that there can never be a true democracy without social justice because the equal political rights outlined in liberal democracies cannot be translated to economic rights.<sup>12</sup> This assertion is very true because politics determines who gets what, when and how, especially in

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<sup>4</sup> Bitar, S. (Ed), 2015, *Democratic Transitions: Conversations with World Leaders*, Johns Hopkins University Press, Baltimore

<sup>5</sup> Lijphart, A., 2012, *Patterns of Democracy*, Yale University Press

<sup>6</sup> Consociationalism is a form of democracy that seeks to regulate and stabilize a society that is composed of distinct groups and societies in terms of ethnicity, religion, political etc. Consociationalism is best applied where no distinct group can form government on its own.

<sup>7</sup> Corporatism is a type of negotiated democracy that is practiced in jurisdictions where the society is organized into industrial and professional corporations serving as organs of representations. Its main purpose is to ensure social economic development.

<sup>8</sup> Regime of veto powers is a form of democracy where other than the three arms of government (executive, legislature and judiciary) there are other constitutional institutions created for purposes of checks and balances.

<sup>10</sup> Armingeon, Klaus, 2002, The effects of negotiation democracy: A Comparative analysis, *European Journal of Political Research* 41: 81-105

<sup>11</sup> Abu-Bakarr Jalloh, Has democracy failed in Africa? 14.04.2017 Available at <http://www.dw.com/en/has-democracy-failed-in-africa/a-38426656> Accessed 21 June 2018

<sup>12</sup> Joseph, Richard, ed., 1999, *State, Conflict and Democracy in Africa* (Colorado: Lynne Rienner Publishers), 3-57.

Africa where societies are not egalitarian. Indeed, Marx goes further to argue that multiparty competition is just a means to create false consciousness because the same parties are vehicles of the owners of capital to continue with their exploitation of the masses. African founding fathers buoyed by Marx's assertions saw the adoption of representative democracy as being capable of deepening ethnic divisions in the continent and thus preventing the new independent states from achieving nation building and economic emancipation.<sup>13</sup>

After the end of the Cold War, most donor communities principally from the West started demanding for the opening of the democratic space before advancing aid to most African states. Majority of the authoritarian regimes started opening up systems to introduce multi-party politics that was a hallmark of representative democracy as advocated by the West. Apart from the reintroduction of political parties, these countries were now required to hold regular elections that were to be competitive in nature.<sup>14</sup> By 1999, the number of African states that had adopted multi-party politics had risen from 9 to 45.<sup>15</sup> However, most of these transitions were not peaceful as every electioneering year meant a country was on the precipice. The competitive nature of the politics meant competitors applied all manner of tactics such as dividing communities along ethnic, tribal and religious lines for political expediency. These led to violent conflicts before, during and after elections. A general concern therefore is that African states have been unable to manage ethnic diversity.<sup>16</sup> In most cases, the differences are usually manifested during competitive elections and political campaigns which are ethnicized hence ending up in violence. This problem is not confined to Africa only, but it can also be seen in other regions such as the former Yugoslavia, Sri Lanka and Burma where the issue of ethnicity has been politicized with devastating effects. In countries such as Kenya, tribal politics have been blamed for the increasing corruption, marginalization, and disenfranchisement of some sections of the population and the almost assured pre and post-election violence. A recent example is the 2007 post-election violence that threatened to tear the fabric of the country. The

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<sup>13</sup>Joseph, Richard, ed., 1999, *State, Conflict and Democracy in Africa* (Colorado: Lynne Rienner Publishers), 3-57

<sup>14</sup> Ibid

<sup>15</sup> Thomson, Alex, 2002, *An Introduction To African Politics*, (London: Routledge.), 215-232.

<sup>16</sup> <https://theconversation.com/how-kenya-could-move-away-from-the-politics-of-ethnicity-77980>, accessed on 29/04/18

passage of the National Accord and Reconciliation Act of 2008<sup>17</sup> and the resultant power sharing agreement saved the country from descending into a full scale civil war with its devastating consequences and helped restore peace and stability since all communities felt that they were in government. The power sharing arrangement which led to formation of a grand coalition government bringing together all the main political players in the ruling regime and opposition also resulted in the promulgation of a new Constitution in 2010. Ironically, some key tenets such as an expanded Executive with the position of a Prime Minister and respective deputies in the Accord that were hailed for fostering inclusivity never made their way to the Constitution.

So which way for peace in Africa and especially during elections? If we were to treat democracy as flexible and not rigid could it lead to peaceful transitions? Could negotiated democracy be a better alternative? This study examines the potential of negotiated democracy in resolving the perennial election-related conflicts in Africa by analyzing a case study of Kenya's Mandera County (2013–2017) where some form of negotiated arrangements were conceived and implemented around elections to ensure amity and unity among various clans in the region.

## **1.2 Statement of the Problem**

The wave of democratization in Africa in the late 1980s and early 1990s was one of the significant changes on the continent since the independence period in the 1960s. The trend was accompanied by the emergence of institutions and changes associated with democracy such as free press, a vibrant civil society and opposition political parties. Between 1990 and 1994, 29 out of the then 47 states in Africa conducted multi-party elections. By the year 2000, it was only a handful of states that were not officially multi-party democracies. A sense of optimism engulfed the continent which was replicated in the economy with Africa registering an overall growth rate of 4.4% in 1996, the best ever in over a decade.<sup>18</sup> The World Bank and the International Monetary Fund (IMF) attributed the new developments to their policy recommendations such as embracing liberal policies and democracy.<sup>19</sup> Apart from advocating for the opening of the democratic space,

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<sup>17</sup> This is an Act of Parliament passed by Kenya's National Assembly in 2008 for power-sharing purposes between the government and opposition following a disputed general election in late 2007 that had seen President Mwai Kibaki controversially re-elected.

<sup>18</sup> Walle, N., et al, 2000, *The Impact of Multi-Party Politics in Sub-Saharan Africa*, Michigan State university

<sup>19</sup> Ibid

the international community also came up with initiatives such as the International Criminal Court (ICC) to deter politically instigated violence.

Despite most African states holding regular elections and generally embracing representative democracy, the continent still continues to witness electoral related conflicts. Africa accounted for only 16% of the world population in 2016 and yet a third of global conflicts in 2015 took place in Africa most of them electoral related. Similarly, information from the Armed Conflict Location and Event Data Project (ACLED) and Uppsala Conflict Data Program (UCDP) indicate that there was a sharp increase of electoral violence in Africa between 2010 and 2014.<sup>20</sup> In 2011, 18 African countries conducted general elections, whereby 11 out of these witnessed electoral violence with some resulting to displacement and loss of life.<sup>21</sup> The return of multi-party politics therefore seems to have come with new challenges including animating new forms of conflicts related to identity divisions (particularly ethnicity) and elections. Ivory Coast, for example, that had been seen as a beacon of hope in the continent during the single party era was thrown into a civil war after a disputed election in 2000. Kenya too, in 2007 held its elections which resulted in post-election violence that lasted over a month costing the lives of more than 1500 people and displacement of thousands more. In view of all these, is the winner-takes-it-all type of democracy the best option for Africa? Can a negotiated version of democracy help to mitigate electoral related conflicts? This study examines whether or not negotiated democracy can offer solutions to the problem of election-related conflicts in Africa through a critical analysis of the case of Mandera County in Kenya (2013 to 2017).

### **1.3 Objectives of the Study**

#### **1.3.1 Main Objective**

The main objective of the study is to assess whether or not negotiated democracy can offer solutions to the problem of election related conflicts in Africa by examining the case of Mandera County in Kenya (2013 to 2017).

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<sup>20</sup>Less armed conflict but more political violence in Africa; Available at [www.issafrica.org](http://www.issafrica.org). Accessed on 20 April, 2018

<sup>21</sup> Akosua, Doprina, 2012, Voting in Fear: Electoral Violence in Sub-Saharan Africa, United States Institute of Peace

### **1.3.2 Specific Objectives**

- a) To examine the nature and dynamics of electoral democracy in Africa and the challenges that have attended to it.
- b) To assess the nature of negotiated democracy in Kenya's Mandera County.
- c) To provide a critical analysis of ways in which negotiated democracy can serve as a conflict prevention mechanism in Africa.

### **1.4 Research Questions**

- a) What is the nature and dynamics of electoral democracy in Africa and the challenges that have attended to it?
- b) What is the nature of negotiated democracy in Kenya's Mandera County?
- c) In which ways can negotiated democracy serve as a conflict prevention mechanism in Africa?

### **1.5 Hypotheses**

- a) Negotiated democracy can prevent electoral conflicts in Africa because it takes care of the ethnic diversities and their interests.
- b) Negotiated democracy cannot prevent conflicts in Africa.
- c) Negotiated democracy has no effect in preventing election-related conflicts in Africa.

## **1.6 Justification and Significance of the Study**

### **1.6.1 Policy Justification**

This study endeavours to help policy makers in most Sub-Sahara African states and the international community in general to review their policies to include the aspect of negotiated democracy in their governance in order to address the frequent electoral-related violence in the continent. In Kenya's context, the same lessons about negotiated arrangements can be adopted in devolved units (County government level) to address the perennial problem of violence before, during and after elections as a result of political competition over power and resources.

### **1.6.2 Academic Justification**

The findings of this study will be of enormous importance to academic researchers and a broad spectrum of stakeholders who are interested in the fascinating field of negotiated democracy and politics of inclusivity in general. The final report of this study will be available in the library and journals for purposes of equipping learners with more knowledge on the subject area.

### **1.6.3 General Public**

The study will bring out the key features of negotiated democracy and politics in general. This will lead to the better understanding of its merits and demerits. The study will also focus on how it has performed in various areas on the continent and the world in general. It may also assist in starting a public discourse on the best form of government to adopt especially in conflict prone areas such as Somalia.

### **1.7 Scope of Study**

The study will focus on the utility of negotiated democracy as an effective tool in solving election related conflicts in Africa by using the Mandera County of Kenya case (2013 to 2017). The study will employ the mixed approach where both qualitative and quantitative data will be used. The study will focus on the Garre People of Mandera County in Kenya community Charter and its application during the 2013 to 2017 period.

### **1.8 Literature Review**

#### **1.8.1 Election Violence Cycles in Africa**

In a paper presented to a seminar in 2011, Author Larok traces the origin of democracy from the Greek City states all the way to the liberal democracy wave. Larok posits that the ancient democracy as practiced in Athens was different from the liberal democracy that has been the cause of many conflicts in Africa. The ancient democracy was more informed by the history, it was also about direct participation by the citizens and similarly it was not rigid but rather flexible, that is, allowed room for negotiation.<sup>22</sup> Therefore, as Africans for us to make it work for

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<sup>22</sup> Democratizing or Africanizing Democracy: Which way Africa? Reflections by Authur Larok for a Seminar on Electoral Democracy by MS TCDC 11<sup>th</sup> January, 2011.

us we need to ask ourselves the above three questions. Scholars such as Nigeria's Professor Cyril Obi have argued that liberal democracy the way it is now, is not best suited for Africans and only elites at independence embraced it so as to dominate the populace. He notes that the West forced its political culture on Africa as a way of homogenizing the world.

Since the return of competitive multi-party politics in Africa from the early 1990s, there has been a great sense of optimism that the continent was on the path to democracy. However, this noble trend has always been accompanied by a worrying trend of election related violence. This trend clearly comes out as the greatest danger to peace and security while at the same time negatively impacting on the democratization process. Violent conflicts have occurred in a number of countries mostly election related. The conflict has always manifested itself in the form of low intensity violence, harassment of both voters and candidates, unlawful incarceration and in some instances political assassinations as well as general violence pitting supporters of competing forces with security agencies. Some of the countries that have exhibited violent conflicts in the recent past include Kenya, Gambia, Uganda, Guinea, Madagascar, Ivory Coast, Zimbabwe, Democratic Republic of Congo (DRC), Cameroon, Equatorial Guinea, Liberia, Senegal and Sierra Leone.

Electoral violence manifests in different facets and can be grouped into two broad categories. One, relates to structural factors prevalent in young and new democracies. This category comes in form of patronage, bad governance, lack of inclusivity and fear of losing power in centralized governments. The second category is as a result of factors inherent in the electoral process itself. These factors include bungled elections and weak institutions overseeing the electoral process.

### **1.8.2 Negotiated Democracy and Africa: Conceptualization**

Negotiated democracy is a form of government where decisions are made in the course of bargaining, compromises and inclusiveness. There has been growing dissatisfaction with the need of having elections as a mode of transition in democracies necessitating for a search of a mechanism that could bind societies instead of leaving them divided along partisan lines. John Haberson for example explores the importance of having agreements in such transitions, extensively elucidated in the studies of Southern Europe and South America. In fact, he posits that the limited adoption of pacts in Africa could be the major ingredient lacking in its attempts



to have functioning democracies. There has been a wide acknowledgement that the South African transition has always been driven at each point by pacts that took the arrangement of foundational agreements.<sup>23</sup> Equally evident is the nature of the South African rainbow nation, various organizations catering for these diverse interests that have invested much effort in having an elaborate transition for the post-apartheid political environment. This has seen South Africa conducting peaceful transitions something lacking in most of the other sub-Saharan African states.

A slight diversion can be witnessed through Deborah Brautingams analysis of the ‘Mauritius Miracle’ as she highlights the accommodationist practices devised in Mauritius have enabled different communities and social classes to experience a sense of inclusion in the country’s economy and overall growth despite partisan competitions with a potential of dividing the society. Jeffrey Herbst for instance explores the increasing manipulation of citizenship requirements that is synonymous with the return of competitive party politics in Africa. Some regimes for fear of being defeated in electoral contests went to the extent of denationalizing an entire community as was the situation in Ivory Coast and Zambia.

Additionally, because of fierce competitive politics, some of the political players usually go to the extent of coming up with divisive tactics that undermine cohesion among different groups. The authoritarian forces before the 1989 democratic wave had devised ways of group accommodation through coopting of elites from various ethnic groups that gave an impression that all communities in a particular state have been accommodated.<sup>24</sup>

Several authors who have analyzed elections advance various observations on its role. Sklar opines that institutional change and continuity should be the main contents of the transitional process since all political systems have an element of democratic and undemocratic characteristics. Other scholars such as Haberson and Rothchild concentrate on the importance of pre-electoral pacts. Hyden posits the relevance of accommodating all the communities in a

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<sup>23</sup> Joseph, Richard, ed., *State, Conflict and Democracy in Africa* (Colorado: Lynne Rienner Publishers, 1999), 3-57.

<sup>24</sup> *Ibid*

polity. Its Hyden's assertions that this research agrees to a large extent because so long as a community feels accommodated then it will readily agree with the outcome of an election.<sup>25</sup>

Apart from many scholars who have argued for negotiated democracy, there are others who have argued against political inclusion which is the cornerstone of negotiated democracy. For instance, Le Van posits that political pacts especially those entered after elections are a great threat to political competition that is the hallmark of democracy.<sup>26</sup> However, I presume peace and peaceful transitions presupposes any form of completion. Le Van goes further to argue that those types of agreements can be abused by incumbents who are not willing to relinquish power or those who have lost elections to cleverly manoeuvre their way to power. Political inclusion termed as one of the main objectives of negotiated democracy has also some visible downsides even though its usefulness in conflict resolution and peace building is well known. To begin with, it has been shown to be inimical to vertical political relationships that offer a good environment for accountability. Similarly, some of these pacts are known to be costly like the Kenyan case of the National Accord of 2008. Additionally, they may result to gridlock during bargaining in some instances and may occasion policy fragmentation.

Negotiated democracy puts more emphasis on proportionality which determines how power and political representation is distributed and also how resources are shared. Djibouti has been a success in that it allocates political seats based on clans and sub-clans system but still alongside a majoritarian electoral system. A downside to this is that it becomes difficult for the opposition to gain power because of the perception brought about by the sense of inclusiveness.<sup>27</sup> South Africa serves as a classic example of benefits of sharing power through a negotiated democracy framework. Everyone in the country realized that maintaining the status quo proved costly for the entire country. The 1993 Rwanda's transition case is an example of a failure of this arrangement. This is because the power sharing agreement that was in place collapsed and the

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<sup>25</sup> Joseph, Richard, ed., *State, Conflict and Democracy in Africa* (Colorado: Lynne Rienner Publishers, 1999), 3-57.

<sup>26</sup> Le Van, C., *Power Sharing and Inclusive Politics in Africa's Uncertain Democracies*, *Governance: an International Journal of Policy, Administration and Institutions* Vol. 24, No.1, January 2011

<sup>27</sup> Ibid

entire state descended into the infamous genocide where close to one million people were killed in an orgy of ethnic-driven violence.<sup>28</sup>

Some scholars have come out to illustrate why consociationalism, a form of negotiated democracy, has failed in some parts of Africa. Sullivan for instance points out issues such as incomplete process of consociationalism. The informal power structures in society incompatibility with what is stipulated on paper can be cited as what led to the failures in Rwanda and Burundi.<sup>29</sup> Lijphart examined 16 models of negotiated democracy cases but only 3 survived in ethnically divided societies. Roeder while accounting for those that survived posits that they divided power among a number of majorities instead of sharing it.

Democracy is hard to thrive in societies that are divided along ethnic, racial, religious or any other known affiliations. This is because political parties in most cases take the path of these divisions resulting in one community or a coalition of communities dominating others. Even though African states had agreements on power sharing, many of them got abandoned within the first three years. Some were not implemented like Rwanda's 1993 case that tragically resulted to genocide. Others resulted in civil wars that are still ongoing and the Sudan's case of 2005 went the secession way. The biggest threat to negotiated democracy has always been the adoption of the agreement. Additionally, most of the drafters of these agreements have always ignored conditions in which they are supposed to operate especially for societies that have deep rooted divisions.<sup>30</sup>

Among the obstacles to proper functioning of negotiated democracy is that firstly, in a normal setup, the majorities would prefer a majority rule while the minorities would want protection against the majority hence preferring the negotiated form. Therefore, the majority would prefer this form in situations where they are temporarily weak after cases of a civil war or prolonged violence. This was the case for Kenya in 2007. Secondly, because of usually high stakes in ethnic politics most people would prefer a maintenance of the status quo as in the better the devil

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<sup>28</sup> Le Van, C., Power Sharing and Inclusive Politics in Africa's Uncertain Democracies, *Governance: an International Journal of Policy, Administration and Institutions* Vol. 24. No.1, January 2011

<sup>29</sup> Ibid

<sup>30</sup> Horowitz, D.L., Ethnic Power Sharing and Democracy, *Journal of Democracy*, April 2014, Vol. 25, No. 2

you know case. Thirdly, the issue of negotiators biasness cannot be ruled out. Most of the time negotiators come to the table with preferred models and institutions from successful democracies elsewhere. Modification in negotiated democracy and consociationalism can be very difficult to modify because in most cases they are established when the majority are momentarily weak. Other scholars have argued that these models are usually good during transition periods to avert conflict and then shift to other forms of institutions when normalcy has returned.

### **1.8.3 Negotiated democracy: Successes and Criticisms**

Somaliland, even though yet to be internationally recognized as a sovereign state, in regard to democracy it has made a lot of strides where a handful of other Sub-Saharan African states have managed especially when it comes to managing peaceful elections. This can be partly attributed to its embrace of tenets of negotiated democracy that has been hailed as a better platform that ensures inclusivity. However, insecurity, political and other issues brought about by the Al-Shabaab menace is threatening the democratic and peaceful nature of its electoral transitions. This can be attributed to a mixture of traditional tribal arrangements and democratic practices. Somaliland citizens have often relied on negotiated democracy for solutions to controversial questions such as the 2012 formulae used in determining the three national political parties.<sup>31</sup> However, other scholars have criticized the over reliance on the clan leaders as it undermines the rule of law and independence of institutions. This criticism is despite the fact that negotiated democracy is attributed to the relative peace in Somaliland. Its Constitution restricts national political parties to three to prevent formation of clan based political parties hence in turn promoting inclusivity and integration of clans.

Njogu and Wekesa argue that negotiated democracy is based on elite active behavior and accommodation. They cite the example of Migori County in Western Kenya where a faction including candidates in the 2013 elections were not aware of negotiations that were not in place and really got disappointed when their ambitions were cut short. They aver that the theory can best work in stable democracies and not African environments.<sup>32</sup> However, this assumption may

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<sup>31</sup> Forero et al, Elections and Conflicts in Sub-Saharan Africa 2013: Somaliland, Ivory Coast, Kenya, Princeton University, Woodrow Wilson School, February, 2013.

<sup>32</sup> Njogu, K and Wekesa, P.W., 2015, Kenya's 2013 General Election: Stakes, Practices and Outcomes, Twaweza Communications, Nairobi, P. 348 - 360

not be true because this arrangement has worked in unstable environments such as Somaliland and even post-apartheid South Africa. Njogu and Wekesa further argue that because of threats of being negotiated out of the political equation by the dominant communities, the contestants may ignore the negotiated deals and change political parties.

#### **1.8.4 Dynamics Responsible for Instability during Election Cycles**

There are quite a number of dynamics in Sub-Saharan Africa that are responsible for violence during the election cycles. To begin with, lack of trust in institutions responsible for managing elections has been one of the major reasons leading to violence prior, during or after elections. The 2007/8 Post-Election Violence in Kenya and Ivory Coast's 2011 case serve as good examples of stakeholders play in fanning violence that lead to deaths and destruction of property during an electioneering process. Using violence to disenfranchise voters has been institutionalized in Africa. This has been used by the incumbents to retain power by chasing out would be voters of the competitors from their strongholds. For instance, in Kenya this had been the practice since the return of multi-party politics in 1992. The then ruling party KANU ensured voters who were perceived to be supporting the opposition were ejected from the party's strongholds through pre-electoral politically-instigated ethnic violence. However, 2007/8 witnessed a new phenomenon as the violence happened during the post-election phase unlike in the previous elections and it was on a scale never witnessed before. This resulted to the death of nearly 1500 people and displacement of about 660,000 people.<sup>33</sup> The violence was only brought to a stop after the two main presidential contenders agreed to work together in a Grand Coalition government mediated by the international community.

#### **1.9 Gaps in the Literature**

From the above literature, the study has established that quite a number of research work has been done on the subject of democracy and its applicability in the African continent. However, most of it had been imploring most African states to adopt the concept and form of government the way it is practiced in the West. This is despite Africa and the Western world having contrasting cultures and view of leadership informed by other factors such as environment and

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<sup>33</sup> Forero et al, Elections and Conflicts in Sub-Saharan Africa 2013: Somaliland, Ivory Coast, Kenya, Princeton University, Woodrow Wilson School, February, 2013.

expectations. Additionally, there has been no concrete research to establish how the emerging concept of negotiated democracy can be harnessed to ensure peaceful transitions during elections in most African states and especially the Horn of Africa. Therefore, the study seeks to determine if negotiated democracy can be a solution to election related conflicts in Africa using the Mandera County case.

## **1.10 Theoretical Framework**

This study embraces the Participatory Democratic Theory in its endeavor to establish if negotiated democracy can be a solution to election related conflicts in Africa using the case study of Kenya's Mandera County. The theory is a branch of the larger democratic theory that gained much traction in the 1970s and 1980s. Below are some brief highlights on the aforementioned theory and its relevance to the study.

### **1.10.1 Participatory Democratic Theory**

Participatory democratic theory borrows elements from both direct and representative democracy. It is one of the closest models to the earlier democracy as was practiced by the Greek City states. This model which is a branch of the greater democratic theory advocates for citizens being the ultimate decision makers while politicians work is to implement the proposals from the citizens.<sup>34</sup> Direct democracy offers citizens greater opportunities for decision making as opposed to the liberal representative democracy mostly common in the West. The main theorists associated with this branch of the larger democratic theory include scholars such as Carole Pateman and Bachrach<sup>35</sup> This school of thought developed aggressively during the 1970s and 1980s. For instance, the civil society merged with the economic dimension to create what was called associative democracy. Another angle that developed during this period and laid more emphasis on bargaining models was cooperative democracy. The third form of participatory democracy is called deliberative democracy which puts more emphasis on communication.<sup>36</sup>

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<sup>34</sup> Enriqueta Aragonés, 2008, A Theory of Participatory Democracy based on the real case of Porto Alegre, European Economic Review

<sup>35</sup> Pateman C., 1970, Participation and Democratic Theory, Cambridge University Press

<sup>36</sup> Theo Schiller, Direct Democracy and Theories of Participatory Democracy – some observations

The theory puts more emphasis on maximizing the participation of citizens in decisions that have impact on their lives. Citizens are not only involved in elections but their participation is continuous. Citizens therefore come up with various organizations and institutions to defend their own interests. Such groups include interest groups, council of elders like in the case of Garre Community in Mandera County, political parties among others. This model is based on popular inclusion where minority voices and political outsiders are heard. This theory advocates more of bottom up approach in communication.<sup>37</sup> In summary, participatory democratic theory tends to advocate more involvement of citizens participation and much political representation compared to the traditional representative democracy.

However, this theory just like other democratic theories has a weakness as far as internal validity is concerned. Democratic Theory has been found by many scholars to lack sufficient coherence in its variables, concepts and how it tries to interlink them. Scholars associated with democratic theory such as Huntington disagree over which features of democracy are a pointer to a successful democratic transition. While Huntington anchors his arguments on honest, fair and periodic elections as a clear definition of democracy,<sup>38</sup> Linz and Stepan on their part widen the definition by adding constitutional, attitudinal and behavioural elements.<sup>39</sup> These internal shortcomings sometimes raise questions on the theory's ability to predict future democratic transitions.

## **1.11 Research Methodology**

### **1.11.1 Research design**

A research design is the structure of the research showing how all important components of the research project or study integrate with each other in trying to address the research problem.<sup>40</sup> There are many types of research designs which include; descriptive, experimental, correlational, case study and cross cultural research designs. In this case the research design will be a case study. A case study endeavors to describe a unit under study in detail as you maintain the

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<sup>37</sup> [www.amk.fi/opintojaksot](http://www.amk.fi/opintojaksot), accessed on 6<sup>th</sup> June, 2018

<sup>38</sup> Huntington, Samuel, Democracy's Third Wave, Journal of Democracy, Spring 1991

<sup>39</sup> Linz, et al., Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe. Baltimore, MD: Johns Hopkins University Press

<sup>40</sup> Tromp, 2006, Proposal and Thesis Writing, an Introduction, Paulines Publications Africa, Pp 70

context.<sup>41</sup> Because its ability to offer an in-depth interrogation of a phenomenon, a case study is better placed in finding out the effectiveness of negotiated democracy as a tool in preventing election related conflicts.

### **1.11.2 Target Population**

This is an entire group of individuals, objects or items to which a researcher is interested in generalizing his or her conclusions. A target population usually has varying characteristics that a researcher should put into consideration. In this study the target population will be the entire Sub-Saharan Africa residents who have been grappling with election related violence, which at times degenerate into widespread violence.

### **1.11.3 Sample and Sampling Technique**

A sample is a sub-group drawn from the population with relevant characteristics. Indeed it is more of a process that involves choosing a number of persons or things from a population such that the chosen group contains elements representative of the characteristics found in the entire group.<sup>42</sup> Where it is not always appropriate or possible to study the whole population, a sample may be drawn.<sup>43</sup> Sampling is a process of selecting a number of individuals for a study in such a way that individuals selected will represent the target group from which they will be selected.<sup>44</sup> Stratified random sampling technique will be used in this study, where all the sub-counties of Mandera County will be put into strata. Then from each stratum, simple random sampling will be employed.

The minimum sample size<sup>45</sup> can be determined using the following formula:

$$N = \frac{Z^2 pq}{e^2}$$

Where:

N= the minimum sample size if the target population is greater than 10,000

Z= the standard normal deviate at the required confidence level, e.g., 95%

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<sup>41</sup> Tromp, 2006, Proposal and Thesis Writing, an Introduction, Paulines Publications Africa, Pp 72

<sup>42</sup> Ibid

<sup>43</sup> Kothari, 2006, Research Methodology: Methods and Techniques,

<sup>44</sup> Mugenda, 2008, Social science research: Theory and principles,

<sup>45</sup> Ibid



The value for Z is found in statistical tables which contain the area under the normal curve. e.g  
Z = 1.96 for 95 % level of confidence

e = the margin of error (the desired level of precision)

p = the proportion in the target population estimated to have characteristics being measured. Use  
0.5 if unknown.

q = 1-p

Using the Mugenda and Mugenda formulae, the relationship between sample size and total population is that as the population increases, the sample size increases at a diminishing rate and remains relatively constant at slightly more than 384 cases. Once the required sample size has been obtained, proportional allocation is used to obtain the number of representatives from Mandera County. For example, the sample for Banisa's 158,074 will be calculated as follows:

$$\frac{158,074}{1,294,917} \times 384 = 46$$

#### **1.11.4 Data Collection Methods and Instruments**

The research will employ interviewing as a source of data collection. This research will rely on both primary and secondary data sources related to the subject matter. The bulk of the analysis will be based on secondary data reinforced with primary data from interviews and focus group discussions that will be carried out in several locations within the County of Mandera. The researcher will interview about 384 respondents drawn from various groups within the County and influential members from the Garre community residing in parts of Nairobi. It will include a section of elders drawn from the various sub-clans making up the Garre and who were actively involved in coming up with the Garre Community Charter that outlined how various sub-clans were to share political leadership . Secondly, professionals and a section of opinion shapers will be interviewed together with a sample of Mandera residents randomly selected through simple random selection. Similarly, views from scholars of conflict and religious leaders will also be sought. Last but not least, views from the security experts together with the local leadership will also be captured through the same method.

### **1.11.5 Data Analysis and Presentation**

Data analysis involves examining the data that has already been collected and making inferences and deductions.<sup>46</sup> It involves mining important variables, checking for the presence of any anomalies and testing for assumptions. The interview and focus group discussions results will be analyzed using thematic analysis. In this case, the researcher will identify responses that are relevant in answering the research questions and objectives after which a coding system is developed.<sup>47</sup> Major issues and topics will be written down and grouped into similar arguments to draw a conclusion. Thematic analysis seek to put together the “big picture” about experiences or events as the participants understand them. This method of data analysis is the most appropriate to analyze data gathered through in-depth interviews in order to make general conclusions about the topic at hand. Presentations will be in narratives and themes.

### **1.12 Chapter Outline**

This study will be organized into five chapters. Chapter One is the introduction to the study highlighting the background, objectives, theoretical framework and the problem statement among others. Chapter Two will be a detailed literature review highlighting the functioning of democracy in Africa especially around elections and the challenges that have attended to it. Chapter Three will specifically evaluate a case study of Kenya’s Manderu County where there have been efforts to assume some form of negotiated democracy. Chapter Four will provide a critical analysis on negotiated democracy and ways in which it can serve as an effective electoral conflict prevention mechanism in Africa. Finally, Chapter Five will contain a summary of key findings and conclusions.

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<sup>46</sup> Tromp, 2006, Proposal and Thesis Writing, an Introduction, Paulines Publications Africa, Pp 117

<sup>47</sup> Ibid

## CHAPTER TWO

### LITERATURE REVIEW ON THE NATURE AND DYNAMICS OF ELECTORAL DEMOCRACY IN AFRICA

#### 2.0 Introduction

This chapter reviews available literature on the nature and dynamics of electoral democracy in Africa. It examines the challenges facing electoral democracy with central focus on issues of election violence, politics of ethnicity and the influence of external actors in African democracy. The chapter also reviews literature on the role of institutions and laws in fanning electoral related violence and suggestions on mitigating this violence. The aim is to elicit debate on how electoral democracy has worked in Sub-Saharan Africa since the return of multi-party politics and whether it is time to rethink the adoption of majoritarian democracy on the continent.

#### 2.1 Cycles of Election-related Violence in Africa

The return of multi-party politics in Africa in the early 1990s was accompanied by a great sense of optimism that the continent was on the path to competitive politics. Several years down the line, electoral politics has always been accompanied by a worrying trend of election related violence. This trend has clearly come out as the greatest danger to peace and security while at the same time negatively impacting on the democratization process. Violent conflicts have occurred in a number of African countries in the recent past mostly around general elections. Examples include Kenya (2017), The Gambia (2017), Uganda (2016), Guinea (2018), Madagascar (2018), Ivory Coast (2016), Zimbabwe (2018), Democratic Republic of Congo (DRC) (2018), Cameroon (2018), Equatorial Guinea (2018), Liberia (2017), Senegal (2017) and Sierra Leone (2018). The conflicts have always manifested themselves in form of low intensity violence, harassment of voters and candidates, unlawful incarceration and in some instances political assassinations, and general violence/chaos pitting supporters of competing forces with security forces.<sup>48</sup> Therefore, frequent disagreement over the election results has become one of the prominent features of electoral democracy in Africa.

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<sup>48</sup> Cheeseman, Nic, 2015, *Democracy in Africa: Successes, Failures and the Struggles for Political reforms*, Cambridge University Press

Electoral violence manifests itself in different facets and can be grouped into two broad categories. The first category relates to structural factors prevalent in young and new democracies and is characterized in form of patronage, bad governance, lack of inclusivity and fear of losing power in centralized governments. The second category is as a result of factors inherent in the electoral process itself; which include bungled elections and weak institutions overseeing the electoral process. Electoral violence which is a subset of political violence has several individual features that distinguish it from other types of political violence. Its intention and the time it happens is one of the features that make electoral violence different. Usually its main intention is to determine or influence the outcome of elections. Rebellions, repression and coups all occur with the electoral processes notwithstanding. Electoral violence incorporates any threatening or harassing action that is directly related to the electoral process. Electoral violence employs a wide range of deeds that are not limited to involuntary displacement of voters, circulation of hate speech leaflets, hate messages on other media such as vernacular radio stations and even the social media, politically motivated killings and violent attacks targeted at certain groups.<sup>49</sup>

Electoral violence differs from other types of politicized violence because its actors utilize the existing electoral framework to achieve their objectives. Burchard for example, differentiates electoral violence from a coup d'état, a common form of political violence that has also been a common feature in the African continent. She avers that a coup entails forceful removal of a government or individual from political power through extrajudicial acts. Electoral violence on the other hand happens within existing and established timelines to achieve its intended goal of influencing the outcome of an election. Electoral violence is also unique in that apart from targeting the elite level actors it also includes voters and children as potential targets of violence. Planning is another aspect of electoral violence and the examples of Kenya, Nigeria and Zimbabwe proves this. For instance, in Kenya this had been the practice since the return of multi-party politics in 1992. KANU ensured voters who were perceived to be supporting the opposition were ejected from the party's strongholds through pre-electoral violence. However, 2007/8 witnessed a new phenomenon as the violence happened during the post-election phase

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<sup>49</sup> Burchard, S. M., 2015, *Electoral Violence in Sub-Saharan Africa: Causes and Consequences*, Lynne Rienner Publishers, P.12

unlike in the previous elections and it was on a scale never witnessed before. This resulted to the death of nearly 1500 people and displacement of about 660,000 people.<sup>50</sup> However, there are instances where it occurs as unplanned like in the case of countries such as Guinea and Senegal.<sup>51</sup>

Birch and Muchlinski, while defining election violence as a sub-type of political violence in which the electoral process coincides with coercive force, observe that election violence has been affecting many countries across the world because they (countries) are increasingly utilizing elections as a means of transferring political power from one government to the other. Similarly, elections have been accepted by vast majorities of states and international organizations such as the United Nations as providing legitimacy to the ruling incumbents. Birch and Muchlinski further observe that electoral violence is a great threat to general security and democracy and can easily culminate in revolutions as was witnessed in Egypt and Tunisia in 2012.<sup>52</sup> Indeed election violence has been used by political parties as a means to influence the outcome of elections in their favour across many countries in Africa. This goes against the tenets of democracy where each vote in an election is supposed to count. The two scholars further conceptualize electoral violence as violent protests marred with attacks by gangs in protest of election results. They opine that it can occur before elections to disenfranchise voters, during elections to disrupt the process or after elections to ostensibly punish sections of the electorate for voting in certain ways.<sup>53</sup> Election violence can be employed at any point in the electoral cycle.

Electoral violence can further be sub-divided into various types depending on how it has happened. Burchard on her part classifies it into incidental and strategic electoral violence. Incidental violence can be attributed to protests that surround electoral events by opposing groups that are in close proximity to each other. Among the trigger factors for this type of violence could be real or imagined perception of electoral malpractices. It does not involve prior planning but rather a spontaneous occurrence. Senegal's case of 2012 is a good example of this type of violence. Strategic violence on its part is pre-planned with the intention of affecting the

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<sup>50</sup> Forero et al, Elections and Conflicts in Sub-Saharan Africa 2013: Somaliland, Ivory Coast, Kenya, Princeton University, Woodrow Wilson School, February, 2013.

<sup>51</sup> Ibid

<sup>52</sup> Sarah Birch & David Muchlinski, 2017, The Dataset of Countries at Risk of Electoral Violence, Terrorism and Political Violence,

<sup>53</sup> Sarah Birch & David Muchlinski, 2017, The Dataset of Countries at Risk of Electoral Violence, Terrorism and Political Violence,

outcome of an election. Kenya's electoral related violence serves as a good example for this type of violence. For instance, in 1992 the then Kenyan President Daniel Moi and his Kanu supporters are believed to have planned the killing and displacement of large numbers of opposition supporters in the Rift Valley purposely to prevent them from voting for the opposition candidates.

Disruptive violence for the purposes of unsettling an ongoing electioneering exercise has also been another key feature of electoral democracy in Africa. The main purpose, as the name suggests, is to prevent an election from taking place or at times to try and alter an outcome. The first past the goal type model of democracy makes politicians in competitive politics feel that the loser together with their communities will be out of power for a long time with no guarantee of winning the next elections. This therefore, among other issues serves as a motivation to employ disruptive violence to scuttle elections. In Kenya, the Waki Report on the causes of electoral violence 2007/8 clearly validates this observation. One of the findings in the report was that the opposition employed violence to force President Mwai Kibaki who had been declared winner in the controversial elections to agree to a coalition government with the opposition.<sup>54</sup> Through the intervention of the international community and subsequent enactment of the National Accord and Reconciliation Act of 2008, the government and the opposition agreed to share power by forming a government of national unity. This Accord borrowed a lot of elements from the Consociational model of democracy that advocates for proportional sharing of power.

Africa's history of conflicts and civil wars has greatly contributed to eruption of violence especially during elections. Liberia is one of the countries that experienced a prolonged civil war that ended in 2003.<sup>55</sup> The True Whig Party had been winning elections from 1878 until 1980 when Samuel Doe orchestrated a military coup that disposed the government of William Tolbert. Doe introduced military rule up until 1985 when the country held an election which he controversially won amidst allegations of fraud. In 1990, Doe was captured and murdered, hence throwing Liberia into a civil war that lasted about seven years until 1996 when a ceasefire finally

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<sup>54</sup>The Commission of Inquiry on Post-Election Violence (CIPEV), February 2008, (The Waki Report)

<sup>55</sup> Williams, P.D., 2011, War and Conflict in Africa, Polity Press, Cambridge

managed to halt the violence.<sup>56</sup> The country held multiparty elections in 1997 whereby Charles Taylor won. Many scholars have observed that the vote was more of a referendum against the long civil war and not an endorsement of democracy as the international community had been made to understand.

The prolonged periods of conflicts in most countries in Africa have made it easy for any slight misunderstanding during elections or incitement during political campaigns to degenerate into violent conflicts. Even though most countries have adopted elections as the most desirable mode of changing power, the African history of conflicts makes it almost obvious for electoral related disagreements to be solved through violence. For instance, several elections that have been held or are scheduled to take place in 2018 clearly show that countries with a history of violence are likely to witness the problem of electoral violence. For example, Zimbabwe which went to polls on 30<sup>th</sup> July, 2018 erupted into chaos after supporters of the main opposition party, Movement for Democratic Change (MDC) declared that they had been duped and accused Emmerson Mnangagwa, the ruling ZANU-PF candidate and the incumbent of being worse than Robert Mugabe, the ousted autocratic president and his predecessor.

Burchard while examining the causes and consequences of electoral violence in Sub-Saharan Africa observes that all elections that are held in Africa at any given time, 50% are likely to experience some form of electoral violence either prior to the election day or immediately after. She further observes that large scale violence not only accompanies elections in Kenya but other countries such as Democratic Republic of Congo, Zimbabwe as well as Nigeria. Electoral violence in the continent has been a catalyst for prolonged political conflicts in Africa. Ivory Coast's prolonged five-month political dispute in 2010 over presidential elections where more than 3,000 people lost their lives attests to this. Angola's 1992 multi-party elections led to a civil war that lasted for almost a decade. Burchard therefore observes that electoral violence has a direct correlation with the outbreak of larger conflicts that threaten stability of most countries in the African continent.<sup>57</sup>

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<sup>56</sup> Gascoigne, B., History of Liberia. From 2001, ongoing. Available at [www.historyworld.net/about/sources.asp](http://www.historyworld.net/about/sources.asp)

<sup>57</sup> Burchard, S.M., 2015, Electoral Violence in Sub-Saharan Africa: Causes and Consequences, Lynne Rienner Publishers, P.1-3

On the flip-side, strong majoritarian systems too have advantages such as their ability to facilitate strong parliamentary oppositions that aid in keeping the government of the day in check. This also facilitates democratic consolidation and a high level of accountability. Conversely, a strong opposition may increase fear of possible defeat in government which in turn is a strong incentive for both competitors to resort to political violence for political manipulation.

## **2.2 Politics of Ethnicity**

Koter while examining challenges that face electoral democracy in Africa opines that ethnicity has been the Achilles heel in the continent's political history. In Kenya for example, individual politicians have always trumped political parties and even ideologies hence polarizing the country along ethnic lines. Due to the high polarized political atmosphere, the elections end up serving as triggers for the widespread violence.<sup>58</sup> Indeed there are many underlying issues in most African countries such as political and economic exclusion and historical rivalries that most politicians during political campaigns take advantage of to polarize communities. The Kikuyu is the largest ethnic group in Kenya approximated to be about a fifth of the entire population. By virtue of being the largest community it is therefore expected to have a larger presence in most sectors of the economy. However, there have been accusations that the Kikuyus have been privileged over other ethnic groups in terms of resource sharing. Kenya's first President Jomo Kenyatta is said to have favoured his kinsmen both in politics and business deals at the expense of other ethnic communities. Due to this history of suspicions and ethnic stereotypes, Kenyan elections have always been accompanied by ethnic tensions that have always dogged multi-party elections resulting in violence; the worst being the 2007/8 electoral flare up.<sup>59</sup>

Wiseman on his part observes that political systems in African states are quite different from each other despite of a few common features. He goes on to enumerate the causal factors for these sometimes huge disparities which range from development or underdevelopment, the social composition of different ethnic groups, linguistic and racial differences and historical experiences such as colonial legacies in countries such as Cameroon.<sup>60</sup> These differences which

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<sup>58</sup>Koter, D., 2016, *Beyond Ethnic Politics in Africa*, Cambridge University Press

<sup>59</sup> Burchard, S. M., 2015, *Electoral Violence in Sub-Saharan Africa: Causes and Consequences*, Lynne Rienner Publishers, P.5

<sup>60</sup> Wiseman, John (ed), 1995, *Democracy and Political Change in Sub-Saharan Africa*, Routledge, London



run deep within societies have made it difficult for democracy as practiced in the West to take effect. One of the main features of representative democracy which is multi-party politics has been accused by many scholars of magnifying or furthering these already existing differences. Political parties for example in Kenya's case are formed on the basis of ethnicity with a net result of heightening inter-ethnic tensions and animosities during the electioneering period. The same can be witnessed in Nigeria where political parties take ethnic and religious forms. Wiseman also makes an important observation when he compares how Africans have not been accustomed to peaceful coexistence and political competition. He observes that indigenous values and attitudes play a big role on how African people perceive government and transition politics. A large part of African culture and religion promotes values such as sharing which at times conflicts with multi-party politics ideals such as the first past the post takes it all. African culture and African traditional religious teachings promote the ideals of consensus building instead of blatant competition which is seen as a recipe of competition and conflicts.

Liberal and majoritarian democracy emphasis on individual rights and electoral competition is seen by many African thinkers, leaders and scholars as alien to what the traditions and dictates of most African communities that promote communal rights and consensus building when addressing important issues that affect the entire society. For instance, Julius Nyerere, Tanzania's founding president while promoting his socialism ideology through the Ujamaa initiatives observed that a government based on the single party system fits well with African customs and traditions as opposed to the liberal democracy which promotes competition. The main aspects of Ujamaa as expounded by Nyerere included villagisation, equality, consciousness and democracy which agreed with traditional practices of many Tanzanian communities. Youngs while agreeing with Nyerere argues that the central role of religion, ethnicity and community ties directly collides with individual rights as perpetuated by Western democracies.<sup>61</sup> This therefore puts into contestations assertions that liberal democracy is a solution to multi-ethnic and economic development challenges facing most developing countries especially in Africa. Apart from Nyerere, President Daniel Moi in 1992 noted that he had refused to allow multiparty politics in Kenya because it was going to divide Kenyans along tribal lines. Indeed, to confirm

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<sup>61</sup> Youngs, Richard (2015), *The Puzzle of Non-Western Democracy*, Washington, DC: Carnegie Endowment for International Peace.

Moi's prophecy, preparations for Kenya's elections have assumed the perspective of a national census competition with politicians retreating to their communities to whip up the support of their tribesmen to register and vote in large numbers. Mutahi Ngunyi's thesis on *Tyranny of Numbers* prior to the 2013 elections confirms this assertion.

Ethnicization of politics which is a major dynamic in the politics of Africa has been perpetrated by political and economic elites. Some scholars have attributed electoral violence that accompanies most elections to the elite who use ethnicity as an instrument to further their political goals. To political elites in Africa, electoral violence has been so normalized that instead of condemning the violence and other ills associated with it, the rival parties instead point fingers at each other. The superiority of democracies has been put into question by African elites and opinion shapers especially when it comes to its ability to provide legitimate and effective governance. This situation is further worsened by the rapid growth of regimes that are thought to be authoritarian into world powers hence reducing the attractiveness of Western democracies as the epitome of good governance and economic development.<sup>62</sup>

Compared to other cultures, most African societies value communitarian values such as listening, accommodation and compromise. Some of the stable democracies in the African continent have incorporated democracy with traditional forms of governance. A good example is Botswana which after its independence still maintained the institution of tribal chiefs. A chief's main work is to exercise traditional authority in consultation with the tribe. The chief officiates over tribal functions as well as promoting the welfare of his tribe by presiding over Kgotla<sup>63</sup> meetings. Unlike other African states, Botswana retained its traditional structures even after adoption of democracy which has made it stable despite being multi-ethnic. In its democratic set up, Botswana has promoted decentralization through devolution. The institution of the chieftaincy is part of the country's law and one of the four main institutes of public administration machinery; the others being the District Council led by an elected councilor, District Administration led by a

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<sup>62</sup> Plattner, Marc F. (2015), Is Democracy in Decline? in: *Journal of Democracy*, 26, 1, 5–10.

<sup>63</sup> Kgotla is a customary court or community council where individuals are encouraged to speak freely and openly. The court observes equality and fairness which has made Botswana to be considered as one of the oldest democracies.

District Commissioner who is a civil servant and the Land board which is composed of political neutral members.<sup>64</sup>

To deal with the challenge associated with the politics of ethnicity especially in Africa the Botswana experience and model can come in handy. The most important thing is to encourage locally tailor-made solutions and consensual building through mechanisms such as power sharing and to create wider support for new forms of participation particularly at the local level. However, there is no size fits all model for addressing the challenges of electoral-violence brought about by competitive politics. Instead, each state should be allowed to develop according to its own historical, political, economic and social factors. Raila Odinga a former Kenyan Prime Minister wonders why elections in Kenya have always been like going to war. He posits that there is need to build bridges so that the competition that is brought about by politics does not turn out to enmity. Raila further says that democracy can only thrive when politicians are restrained from using ethnic blocs for purposes of winning elections.<sup>65</sup>

There have been rising calls for the promotion of African solutions to African problems by coming up with standards of what an African model of democracy should be like. However, the political and social conditions in Africa, and even within African countries, are extremely diverse which makes it difficult to develop a coherent variant of democracy. Among the biggest challenges that are making the dream of African version to be unattainable are issues such as lack of a constant set of values and customs among the African states. African political tradition is a concoction that encompasses both democratic and autocratic ideals.<sup>66</sup> Current proponents of African democracy such as Presidents Yoweri Museveni of Uganda and his Rwandan counterpart Paul Kagame have been accused of taking advantage of the new phenomenon to deal with the opposition in their countries while also infringing on human rights and the independent media. Tendai Biti, a prominent opposition politician from Zimbabwe, questions the viability of the much touted British model of electoral system to the social and political conditions in

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<sup>64</sup> Sharma, K.C., *Role of Traditional Structure in Local Governance for Local Development: The Case of Botswana*, World Bank Institute, Washington

<sup>65</sup> Citizen TV Kenya, *An Interview Aired Live Between Raila Odinga and Hussein Mohammed*, Tuesday, 31<sup>st</sup> July, 2018 at 2100 Hours

<sup>66</sup> Gyimah-Boadi, Emmanuel (2015), *Africa's Waning Democratic Commitment*, in: *Journal of Democracy*, 26, 1, 101–113.

Zimbabwe. Raila Odinga also wonders why political campaigns and elections in Kenya have always led to suffering and loss of lives in the country. Raila compares the current presidential system to the 2008-2013 Government of National unity that has been lauded by many scholars as the best and most stable government Kenya has ever had.

Scott Lucas also observes that the expansion of multi-party politics in Africa goes hand in hand with economic and political exclusion. Lucas qualifies this by looking at recent political events in Ghana, Kenya and The Gambia showing political repression and economic inequality has increased in Africa, putting to question the extent of Africa's democratic strides. During Kenya's 2017 elections there was widespread human rights violations when law enforcement authorities engaged opposition supporters in various parts of the country. In trying to address the issues of economic and political inequalities in Africa a number of states have embraced the federal or political devolution models. But even with these devolved units, the ability of opposition parties and candidates from the minority communities to win elections is minimal hence locking them out of power. Lucas thus observes that most African democracies are highly majoritarian and presidential with no institutional mechanisms giving room for power sharing to accommodate minorities and electoral losers.<sup>67</sup> It is true that when and until institutional mechanisms are in place to cater for the interests of everyone in the society the cases of election-related violence and chaos will keep on repeating during every electoral cycle. It is through these obvious exclusions that the opposition and elites use to whip up ethnic emotions.

One of the key characteristics of politics in Africa especially after the advent of multiparty politics as we have seen is the great control and grip that elites have on the entire electoral process. As it had been witnessed in the Kenyan case, political actors' utterances and actions by elites have a direct impact on the eruption of violence during an electioneering process. African politics is also characterized by patron-client relationships where political power is tied to economic gains for the individual politician, immediate family and ethnic community prove that formal rules tend to interact with informal institutions. Basically in a majoritarian set up voters are motivated to support candidates from their own ethnic background while convinced that state resources will be allocated to their communities. Due to fear of permanent exclusion from state

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<sup>67</sup> Lucas, Scott, 2017, The problems of democracy in Africa, The Conversationist

resources, the ethnic community that has been locked out and the one holding power resort to violence in the quest of influencing the outcome of elections. This unique characteristic of African societies makes it highly likely for African countries employing majoritarian politics to descent to electoral-related violence.

African states are also characterized by high levels of economic inequalities which makes the cost of electoral defeat to be extremely high especially where factors of production such as land are controlled by a fraction of the society. This has made those regimes in power resort to political violence for purposes of influencing the outcome of an election or to muddy the entire process in the event the announcement of election results is not in their favour.<sup>68</sup> Take the Kenyan 2007 example where widespread violence broke out following closely contested elections. Supposing the Kenyan elites would have agreed to a power sharing formula akin to the one employed in the National Accord, there is high probability the country would have avoided the violence and instability that overwhelmed it following the disputed presidential election outcome. Apart from the national politics, ethnicity and suspicions of exclusion have made it easier for the narrative of elites to be bought among the devolved units resulting to disruptive violence in Kenya's devolved units. After Kenya's Supreme Court nullified the August 2017 Presidential elections due to what the Judges termed as rampant irregularities and illegalities, Kenyans braced themselves for a repeat poll as ordered by the court. However, the opposition made fresh demands failure to which they were going to boycott the elections. This led to opposition supporters to engage security agents in running battles in Migori, Siaya, Homa Bay, Kisumu and Nairobi counties after they had blocked polling centres to prevent the repeat elections from taking place in those regions and as a result, the repeat polls registered one of the lowest turnouts in Kenya's multiparty history.

Scholars have argued that the new central system that was brought about by colonial legacy undermined African society indigenous systems that had provided them with means of pursuing their objectives. Even though independence replaced colonialists who were the common enemy, on the downside it opened avenues of conflicts in the form of competition for the power that

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<sup>68</sup> Fjelde et al, 2014, Electoral Institutions and Electoral Violence in Sub-Saharan Africa, Cambridge University Press

determined how resources were to be shared. So to ascend to political power in the current multi-party democracy, political alliances have always been built around ethnic loyalties. Ethnicity has been described by analysts as both a source of conflicts and a tool used by politicians to achieve their political ambitions. This reality where ethnicity is a resource for political manipulations is one of the dynamics so prevalent in the electoral democracy of Sub-Saharan Africa. After Ghana attained independence, Kwame Nkrumah outlawed political parties that were organized on tribal or ethnic basis. Tanzania's Nyerere also managed to foster a united country despite being multi-ethnic by promoting nationalism through his socialist policies.

In polities where democratic institutions are strong they reduce cases of electoral-related violence by motivating actors to accept electoral defeat since they are sure of advancing their interests in future contests or other avenues set by the democratic institutions. However, in Africa this is not the case but rather patron-client relationships dictate political loyalty. Thus, access to political power translates to control of state resources and opportunities to loot the public coffers by politicians and their electorate. Worse still, these politician-electorate relationships are structured on ethnic lines.<sup>69</sup>

### **2.3 External Influence**

Electoral democracy in Africa has not been immune to influences that emanate from outside the continent. The ongoing case against the executives of Cambridge Analytica is a clear example that the continent's elites with the help of external actors play a significant part in politics within the continent. With the prominence of digital tools in modern elections, external interference is taking a new dimension. And not only is the interference felt in the developing world, but also in the mature democracies thanks to globalization and modern technology. For example, the United States intelligence agencies are at loggerheads with the administration of President Donald Trump after the agencies discovered Russia's heavy influence in the 2016 US elections to the advantage of Trump. Therefore, the disruption of elections is not domiciled in Sub-Saharan Africa but rather a great global game. Research continues to show that elections have been used by a number of authoritarian regimes that were in decline to reestablish their political

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<sup>69</sup> Burchard, S. M., 2015, *Electoral Violence in Sub-Saharan Africa: Causes and Consequences*, Lynne Rienner Publishers, P.8

dominance.<sup>70</sup> Analysts have argued that Zimbabwe's Mnangagwa organized the 2018 elections to legitimize his presidency after ascending to power through unconstitutional means.

Actors outside the main electoral processes have also been a key feature of electoral democracy in Africa. For instance, in Kenya's 2013 general elections, the Mombasa Republican Council (MRC), a secessionist movement seeking for the independence of Kenya's Coast Province waged some disruptive violence to prevent voters in the area from participating in the polls. Its main goal was to deprive the existing governance structures legitimacy and hence promote its secessionist agenda. Some leaders from the coast region have always argued that the area is always disadvantaged when it comes to the sharing of political power and economic resources. This is despite Kenya's Constitution allowing for the creation of devolved units to aid in the sharing of resources and cure historical injustices such as economic marginalization through provisions such as the equalization fund. Terrorist groups such as Nigeria's Boko Haram have also been accused of perpetrating electoral violence with the aim of preventing the electorate from participating in the 2011 and 2015 elections.

Kelley while analyzing the impact of international influences in new multi-party states observes that despite International Law advocating for citizens' right to choose their own government, elections in many countries have acquired a strong international dimension. She attributes this to the growing globalization phenomenon which has made all the states in the world to be interdependent.<sup>71</sup> Most external influencers say that they are driven by the need of improving elections and it could be either direct or indirect. Despite the international influencers coming up with political conditionality and shaming of countries running bad elections, electoral democracies especially in developing countries continue to experience attendant challenges such as electoral violence.

The international legal system of electoral rights, in addition to agreed norms and ideals also influences elections indirectly in Africa. Article 21 of the Universal Declaration on Human Rights (UDHR) established the principle of participation which strongly advocates for citizens of

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<sup>70</sup> Cheeseman, N. and Klaas, B., (2018), *How To Rig an Election*, Yale University Press

<sup>71</sup> Kelley, J., 2012, *International Influences on Elections in New Multiparty States*, Sanford School of Public Policy and Department of Political Science, Duke University,

a particular state to directly choose their own government. It is through UDHR that the principle of genuine and regular elections as promoted by many liberal democrats is established. It's from this set of laws that many other national, regional and international treaties have borrowed modalities and yardsticks to determine how and when elections among different political parties should be carried out. Additionally, this body of International Law gives lee way to other international organizations such as the UN and international courts to interfere in the affairs of a state and influence elections.<sup>72</sup>

Events around the world can greatly shift what happens domestically especially when it comes to political activities such as elections. Africa has been the worst affected especially with the war on terror and conflicts such as the Arab Spring that swept large portions of North Africa. The spillover effect has affected struggling democracies in the Sahel region such as Mali with the fleeing Jihadis establishing bases in parts of Mali. There has been heavy presence of international military forces in the Sahel region due to the threat posed by emerging terror groups such as the Islamic State and Al Qaeda. This emerging threat has put a lot of pressure on the weak institutions in African countries hence negatively affecting development and nurturing of electoral democracy. Despite massive international presence in Mali during the just concluded elections in July 2018, there was still widespread violence in most parts of the country with some polling stations and ballot boxes being set ablaze by unidentified gunmen.<sup>73</sup>

Some external actors have been accused of deliberately being involved in an election with the intention of purposefully manipulating the outcome in their favour. Russia's attempts to undermine Ukraine's 2004 election by allowing its (Russian) public relations experts to directly participate in Viktor Yanukovich's election campaign is a good case in point. Russia also offered political and economic incentives to convince voters of the importance of retaining good relations with it. As if that was not enough President Putin in a blatant move made a visit shortly before election day. France also received a lot of criticism when it endorsed the 1992 election in Cameroon and yet election monitors and observers had condemned it strongly.

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<sup>72</sup> Ibid

<sup>73</sup> Daily Nation, 30<sup>th</sup> July, 2018, Armed attacks disrupted votes in a fifth of Malian polling stations



Apart from the UN and other international bodies intervening in internal affairs in the continent, the African Union and regional economic blocks have also been engaged. Some interventions have been successful in protecting the will of voters while others failed. The Economic Community of West African States (ECOWAS) for instance, has been actively involved in elections in the West African Region. For instance, in July 2018 it called for elections to be held in Togo to resolve the political crisis in the country after months of protests. In December 2016, The Gambia held elections that saw the opposition candidate, Adama Barrow, defeat the incumbent Yahya Jammeh who immediately conceded defeat. However, a few days later Jammeh changed his mind and said that he was going to contest the results while citing unacceptable electoral anomalies as the reason.

Some scholars who have examined the benefits of external intervention in promotion of democracy in Africa opine that political conditions attached to the disbursement of political aid by Western powers can essentially increase the costs for African tyrants who violate democratic rights.<sup>74</sup> Despite these efforts by the Western powers, no African country that has been subject to serious external intervention since 1990, be it Western sanctions or UN peacekeeping, has made the transition to a full democracy that observes the tenets of neo-liberalism. Therefore, external interventions even though important - like the Kenyan case that led to the cessation of violence in 2008 - continues to be unsuccessful in laying ground for a thriving democracy as practiced in most of the Western democracies.

#### **2.4 Weak Electoral Institutions and Laws**

Due to weak electoral laws and institutions, electoral fraud, perceived unfairness, electoral manipulation and fear that the will of the electorate may be overturned serves as one of the greatest challenges that has bedeviled the African democracy following the return of plural politics. Fraud coupled with other illicit strategies has been one of the major reasons most of the elections in Sub-Saharan Africa end up in violence. Despite coming up with better laws and even allowing participation of external election monitors and observers, cases of electoral fraud are still on the increase. Opposition party candidates in Zimbabwe, DRC, Burundi and other

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<sup>74</sup> Carter, Brett L. (2016), The Struggle over Term Limits in Africa: How International Pressure Can Help, in: *Journal of Democracy*, 27, 3, 36–50.

countries that have scheduled elections in 2018 have expressed fear of possible electoral malpractices in favour of the ruling regimes. For instance, the opposition leaders in the DRC have accused President Joseph Kabila's government of colluding with the country's electoral agency through electronic voting to subvert the will of voters. Kenya's opposition in 2013 and 2017 accused government agencies of hacking the electoral body's electronic system and manipulating it to add votes for the ruling coalition. The verdict by the Kenyan Supreme Court in part validated these claims by the opposition that there was widespread irregularities and vote tampering. Uganda, Ivory Coast and The Gambia have also had their share of weak institutions and electoral laws leading to electoral violence.

It seems years of political interference and weak institutions have made the African populace to lose faith in institutions mandated to oversee competitive elections hence rendering the outcome of elections doubtful and a recipe for violent protests. Cheeseman asserts that lack of both legislative and an enforcement power by the Kenyan Supreme Court was the reason that its decision was not implemented in full. However, apart from this deficiency, the order by the Supreme Court still divided the country down the middle hence corroborating that the problem lie deeper in the society. The Kenyan example clearly shows that it's not only justice but also how power should be shared. Elections also trigger perceptions of economic and political exclusions a claim supported by the fact that majority of the ethnic communities in Kenya have not held the post of the presidency since independence.<sup>75</sup> This research agrees with Professor Cheeseman's assertions that unless African countries address their governance structures to deal with the issue of exclusion, then the secessionist demands are likely to harden with a possibility of more political and election-related violence.

Even though most countries have tried to reform their electoral management processes, the changes have been piecemeal and slow and at times with interference from the ruling party and other interested entities. However, some countries such as Senegal and Ghana have undertaken transparent management of elections which has greatly reduced tensions during the electoral

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<sup>75</sup>Burchard, S. M., 2015, Electoral Violence in Sub-Saharan Africa: Causes and Consequences, Lynne Rienner Publishers, P.7

process and promoted peaceful transfer of power.<sup>76</sup> Despite this great step, the threat of violence still lingers especially during political campaigns proving that the reforms are still under threat and more should be done. Similarly, trust in institutions in most African countries is still low thereby putting these great strides at risk of being eroded. Kenya, DRC and Zimbabwe among others have been accused by electoral observers for not being transparent in their electoral management processes hence frequent cases of violence during elections. Zimbabwe Congress of Trade Unions (ZCTU) in March 2018 called for the disbandment of the country's electoral body and pave way for the UN to supervise elections in the country. This was in reaction to ZEC's chairperson Justice Priscilla Chigumbu trip to Russia in the company of a special advisor to President Mnangagwa that raised suspicions.

An observation to note among the 54 African states is that in terms of electoral violence there is significant variation when you compare different elections within the same country. One election may turn out violent while the other election may be generally peaceful all depending on the prevailing conditions during an electioneering period. Some scholars have argued that democratic institutions including elections are alien to Africa and were introduced before transforming the underlying structures of power in society. This observation could be partly true because the continent for a long period had been under one party rule and politics were intertwined with economics. Therefore, winning an election is a matter of survival for the parties in competition as well as their ethnic support base.<sup>77</sup>

Nic Cheeseman while interrogating the performance of electoral democracy in Africa after the revival of multi-party politics in the continent concludes that democracy has faced many setbacks despite many rounds of elections in a country. He gives the example of Nigeria which despite conducting a third election in 2007 still witnessed a lot of malpractices and violence. Cheeseman also gives Kenya's 2007 election example, noting that despite being the fourth round of regular elections, the worst ever electoral violence in the country was witnessed.<sup>78</sup> In an article in *The Conversation*, Cheeseman paints a picture of African democracy which is full of

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<sup>76</sup> Burchard, S. M., 2015, *Electoral Violence in Sub-Saharan Africa: Causes and Consequences*, Lynne Rienner Publishers, P.8

<sup>77</sup> Policy Notes 2012/2013, *Electoral Violence in Africa*, The Nordic Africa Institute

<sup>78</sup> Cheeseman, Nic, 2015, *Democracy in Africa: Successes, Failures and the Struggles for Political reforms*, Cambridge University Press

quite a number of elections that did not look like elections. He avers that the gains that had been made in the 1990s are under threat from governments that are not ready to embrace plural politics. Even though the Kenyan Supreme court made history by nullifying the election of a sitting President in September 2017, the hope was short-lived as the ordered repeat poll was characterized by violence and boycott by Raila Odinga, the main opposition leader.<sup>79</sup> This clearly demonstrates that despite having an independent Judiciary, there are other factors within the political system and society at large that competitive politics alone does not address.

## **2.5 Resurgent Authoritarian Wave**

A powerful global authoritarian wave is threatening the democratic gains that had been realized in Africa in the past three decades. Peter Kagwanja argues that the freedoms, success, probity and dignity that the majority of Sub-Saharan Africa has gained since the reintroduction of multiparty politics is seriously under threat by a powerful authoritarian undercurrent.<sup>80</sup> Indeed there is a new challenge of global authoritarianism where states that are known to be undemocratic are increasingly gaining influence on the global stage. China and Russia's influence can now be felt across Sub-Saharan Africa especially in terms of unconditional economic and military aid. For example in March 2018, Russia invited Zimbabwe Electoral Commission (ZEC) officials as observers in its elections and ostensibly to benchmark on the 'best practices'. Harvard's scholar of democracy, Diamond argues that illiberal powers over the past ten years have become emboldened and are gaining influence globally at a faster rate than never before.<sup>81</sup>

However, from keen observation, it is not only the rise of China and Russia among other global powers with authoritarian tendencies that poses danger to liberalism as proponents of liberalism would want the world to believe.<sup>82</sup> There are notable changes in the West that are increasingly making liberal democracy especially to be unattractive. The rise in protectionism and isolationist tendencies propagated by leaders such as US President Donald Trump's 'America first' policies

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<sup>79</sup> Cheeseman, Nic, 2017, These are the key lessons we learned about democracy in Africa in 2017, The Conversation

<sup>80</sup> Resurgent authoritarian wave threatens 'quiet revolution', an article by Peter Kagwanja appearing in the Sunday Nation, 5<sup>th</sup> August, 2018.

<sup>81</sup> Diamond, L., 2016, Authoritarianism Goes Global: The Challenge to Democracy

<sup>82</sup> Resurgent authoritarian wave threatens 'quiet revolution', an article by Peter Kagwanja appearing in the Sunday Nation, 5<sup>th</sup> August, 2018.

could be partly the reason some authoritarian leaders in Africa are emboldened. Moyo describes the Western democracy and corrosive aid as the main problems in Africa. In a radical proposal to deal with populism that is cropping up in Africa and threatening the growth of democracy, Moyo argues that before being allowed to vote people should undertake a test to determine if they are knowledgeable of what they are voting for. She prefers a system where some individuals would have more voting powers compared to others.<sup>83</sup>

## **2.6 Conclusion**

There are quite a number of dynamics in Sub-Saharan Africa that are responsible for violence during the election cycles. Lack of trust in institutions responsible for managing elections has been one of the major reasons leading to violence prior, during or after elections. The 2007/8 Post Election Violence in Kenya and Ivory Coast's 2011 case serve as good examples of the part stakeholders play in fanning violence that lead to deaths and destruction of property during an electioneering process. Using violence to disenfranchise voters has been institutionalized in Africa. This has been used by the incumbents to retain power by chasing out would be voters of the competitors from their strongholds. In Kenya's 2007 case, the violence only managed to stop after the two contenders agreed to work together in a Grand Coalition government mediated by the international community. Electoral democracy in Africa indeed has faced various challenges and the resurgence of authoritarian regimes may complicate the situation further.

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<sup>83</sup> Dambisa Moyo interview on Al-Jazeera TV aired on 3<sup>rd</sup> August, 2018 at 2000 hours GMT

## CHAPTER THREE

### NATURE OF NEGOTIATED DEMOCRACY IN MANDERA COUNTY

#### 3.0 Introduction

This chapter specifically looks at the case study of Kenya's Mandera County where there has been efforts to assume some form of negotiated democracy. It examines in detail how the idea of negotiated democracy was introduced and applied in Mandera County from 2013 to 2017 for purposes of solving electoral-related conflicts. The chapter discusses the above in the context of previous electoral-related conflicts in Mandera and efforts to deal with them. The objective is to examine in detail the nature, dynamics and efficacy of negotiated democracy in Mandera County and whether or not the same can be applied to Kenya's national politics and other relevant contexts in Africa

In Kenya, the idea of negotiated democracy gained ground following the promulgation of the Constitution of Kenya 2010 with leaders in several counties pushing for sharing of power among various interest groups. Proponents of the proposal such as the then chairman of the National Cohesion and Integration Commission (NCIC), Mzalendo Kibunjia and Transition Authority's Kinuthia Wamwangi argued that negotiated democracy would serve as a catalyst for national healing and stability.<sup>84</sup> Kibunja encouraged Kenyans to share power to end the winner-takes-all kind of politics that has been a genesis to electoral-related violence in many countries.<sup>85</sup> Encouraged by the new constitutional dispensation that embraced devolution, counties such as Trans-Nzoia, Bungoma, Migori, Marsabit and Mandera rolled out plans on how different communities inhabiting the counties would share power and positions to foster unity and cohesion.

#### 3.1 Mandera County

##### Background

Mandera is one of the counties located in the former North Eastern province of Kenya. It borders Ethiopia to the North, the Federal Republic of Somalia to its East and Kenya's Wajir County to

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<sup>84</sup>Mosoba, Tom, Negotiated democracy gains ground among leaders in 'hotspot' counties, an article in the Sunday Nation, 9<sup>th</sup> December, 2012

<sup>85</sup>Mosoba, Tom interview with Kibunja, Mzalendo in Nairobi on 6<sup>th</sup> December, 2012

the South. The county is located approximately 1,100 Km from Nairobi. According to the Kenya National Bureau of Statistics (KNBS), Mandera County has a population of about 1,025,756.<sup>86</sup> 54.6% of the population comprises of male while 45.4% is female. Additionally, 67% is between ages 0-19 years.<sup>87</sup>The county as per 2017 had 175,642 registered voters.<sup>88</sup>The predominant religion in the county is Islam. Mandera is sub-divided into six constituencies which include; Banisa, Lafey, Mandera North, Mandera South, Mandera East and Mandera West. These constituencies are further divided into 30 wards. The total area of the county is 25,991.5 square kilometres.

Due to the vast pasture lands and water scarcity, the main economic activity for the communities in the county is nomadic pastoralism with the rearing of camels, goats, sheep and cattle being the main livestock. River Daua and a number of shallow wells are the main sources of water. There is also a small pocket of small scale agricultural production with main crops comprising mangoes, paw paws, kales, cow peas and maize. There is also significant cross-border trade and trade in livestock among the other economic activities.<sup>89</sup> Mandera Town in 1910 was made the District Headquarters of the Northern Frontier District (NFD) until 1919 when the headquarter status was moved to Meru in Central Eastern part of Kenya.<sup>90</sup> During the early 20th Century, Mandera District as it was known then was predominantly occupied by the Garre while the Degodia were mostly in Wajir. Mandera County was initially called Mandera District (Garre District) and derives its name after the indigenous and predominant Garre Community. This name was given by Sir Vincent Glenday, Chief Shaba Alio and the prominent elder, Aw Gababa Alio in 1900.

## **Garre**

The Garre Community is estimated to constitute about half of Mandera's population. They are Cushitic people found in Somalia, Ethiopia and Kenya. Even though their language is closer to the Oromo of Ethiopia and Borana of Kenya, they tend to identify more with the Somali Community who also inhabit Kenya and Somalia. The Garre people are predominantly Muslim,

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<sup>86</sup> [www.knbs.or.ke](http://www.knbs.or.ke), accessed on 7<sup>th</sup> June, 2018

<sup>87</sup> County Development Office (2013), [www.mandera.go.ke](http://www.mandera.go.ke), accessed on 15/05/2018

<sup>88</sup> [www.iebc.or.ke](http://www.iebc.or.ke), accessed on 6<sup>th</sup> September, 2018

<sup>89</sup> <https://www.kenyacountyguide.co.ke/mandera-county-009/> accessed on 7<sup>th</sup> June, 2018

<sup>90</sup> This is according to a report in the Kenyan National Archive (PC/NFD/Monthly Report 1914/1927)

a factor that tends to make them be identified as a sub-tribe of the Somali ethnic group who are also predominantly Muslim. Those in Kenya are estimated to be a population of about 700,000 people and majority are in Mandera County. They are majorly pastoralists and keep a variety of livestock ranging from cattle, goats and camels.

### **Murulle**

Murulle are the next populous Somali Group in Mandera after the Garre. Murulle mostly inhabit Mandera East and Lafey Constituencies. They are closely related to the larger Hawiye Group of Somalis that inhabit Central and South Somalia. Over time, the Murulle population has been increasing partly through immigration from Somalia.<sup>91</sup> Currently, the Murulle have become a political power house especially in Lafey and Mandera East where they have been easily winning parliamentary seats. For an extended period, Murulle Clan has enjoyed a cordial relationship with Garre whom they have a history of sharing pasture and water points.<sup>92</sup> One prominent elder from Banisa notes that the reason the two clans enjoyed good relations was because the Murulle's livestock consisted mainly of camels, sheep and goats while Garre had cattle. This ensured the two communities grazed and watered their animals together without much competition. However, with the new dynamics, the interactions between the two clans has changed for the worse due to population explosion and scarcity of resources.

### **Degodia**

The Degodias are mostly found in Mandera North and in towns within Mandera such as Wangai Dahan; ChirChir; Ashabito; Malka Mari and Rhamu. They also live in Mandera Town and share pasture with the Garre in parts of Mandera West.<sup>93</sup>

### **Corner Tribes**

The Corner Tribes is a group of small clans with diverse origins and are mainly found at the main triangular corner that serves as the Kenya, Somalia and Ethiopia Border. These tribes include Shekhal, Shirmogge, Shabelle, Gobawein, and Leisan. Ashraf, Waraabeeye and Herti are

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<sup>91</sup>Emase, Philip, 2017, Voices of the People: Challenges to Peace in Mandera County, National Cohesion and Integration Commission (NCIC)

<sup>92</sup>Ojielo, Ozonnia, Dynamics and Trends of Conflict in Greater Mandera, Amani Papers Volume 1, No.2 May 2010

<sup>93</sup>Ojielo, Ozonnia, Dynamics and Trends of Conflict in Greater Mandera, Amani Papers Volume 1, No.2 May 2010



also among the corner tribes. The corner tribes have lived together, collaborated, and functioned as one clan from around 1959 to the extent that they pay the blood fine together. One respondent from the Shabelle group said that continued harassment from the Murulle is what made the clan to band together for purposes of protecting themselves from being swallowed by the other major clans.<sup>94</sup>

### **3.2 Contextualizing the Mandera Conflict**

Mandera is one of Kenya's 47 Counties that is situated in the arid and semi-arid rangelands of North Eastern Kenya, along the border with Ethiopia and Somalia that is prone to conflicts. Notwithstanding a near homogenous ethnic Somali population, Mandera County has experienced recurrent clan-based clashes dating back to the pre-colonial period.<sup>95</sup> Initially, competition over pasture and other resources such as water for the livestock was the main reason for the conflicts. However, the emergence of contemporary trigger factors such as competition for political power and influence, dispute over land due to the increasing population, migration and endless terrorist attacks from groups such as Al-Shabaab has aggravated the situation.<sup>96</sup> The inter-clan conflicts in Mandera are further worsened by the spillover of cross-border conflicts since several Somali Clans overlap the sovereign borders of the three countries, making it easy for cross-border mobilization in times of conflict and elections in Mandera. Worse still, these clans owe their allegiance to their tribal leaders and have ignored the confines of the colonially imposed national borders.

Apart from the Garre, Murulle, Degodia and the Corner Tribes, there is also a sizeable population of the Marehans who arrived in the county following the collapse of Somalia and have since been seeking recognition as the county's fifth clan. Most of the Marehans are found in Mandera East urban centres and have no proper documents to register as voters save for a few who have acquired Kenyan documents through illegal means.<sup>97</sup> The rivalry among Somali clans and Sub-Tribes in Mandera peaked during the colonial times because of the British policy of balkanizing the clans into grazing enclaves. This colonial legacy has been blamed by many

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<sup>94</sup> Hassan, Idriss, phone Interview with Luvate, Shadrack, Mandera East, 1<sup>st</sup> September, 2018

<sup>95</sup> Ojielo, Ozonnia, Dynamics and Trends of Conflict in Greater Mandera, Amani Papers Volume 1, No.2 May 2010

<sup>96</sup> Emase, Philip, 2017, Voices of the People: Challenges to Peace in Mandera County, National Cohesion and Integration Commission (NCIC)

<sup>97</sup> Focused Group Discussion for Mandera Youth held in Mandera Town on 25<sup>th</sup> August, 2018.

scholars as being the main cause of societal cleavages not only among the Garre, Murulle and Degodia but most of African Societies. Even currently, the local populations still hold to the colonial grazing enclaves which remain the major source of conflicts.<sup>98</sup>In fact, the introduction of multi-party politics and later on devolution, thanks to the new constitution, easily magnified these cleavages. Clans resorted to ejecting those that they perceived as ‘foreigners’ and could tilt election results during general elections.

The strategic location of Mandera County at the tri-border area has made it a major trade route and key entry point into Kenya which therefore attracts a lot of interest especially when it comes to who should control the leadership. Mandera has experienced cyclical violent conflicts between the various communities who inhabit the county. The main clans that had always engaged in electoral related conflicts are the Garre, Murulle and Degodia.<sup>99</sup> For example, between 1983 and 1988, there was a major conflict between the Garre and Murulle over electoral boundary issues and the same conflict repeated itself between 2003 and 2008. The 2003-2008 Garre-Murulle conflict is one of the major conflicts in Mandera majorly triggered by competitive politics and electoral boundaries. The clash between the two clans was as a result of disagreement over electoral boundaries between Alango and Alungu administrative locations.

On the other hand the Garre and Degodia conflict over electoral related issues peaked in 2007 after a Degodia candidate defeated those from the Garre Community.<sup>100</sup>By virtue of the county being home to revered religious leaders and elders such as Sayid Abaas,<sup>101</sup> these conflicts have ended through negotiated ceasefires. However, as soon as the feuding clans settle down all is forgotten and there are no efforts to pursue a long lasting solution to prevent recurrence of conflict. This attitude of pushing things under the carpet has led to subsequent conflicts that are more severe because of unresolved issues. This selective amnesia is not unique to Mandera County residents alone but rather it is a problem in Kenya as a whole. For example, after the enactment of the 2008 National Accord to end the post-election violence, the country forgot to

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<sup>98</sup>Omar, Salim, Interview with Luvate, Shadrack, Personal Interview, Mandera Town, 24<sup>th</sup> August, 2018

<sup>99</sup>Emase, Philip, 2017, Voices of the People: Challenges to Peace in Mandera County, National Cohesion and Integration Commission (NCIC)

<sup>100</sup>Hache, Hassan Issack, Interview with Luvate, Shadrack, key informant interview, Nairobi, 3<sup>rd</sup> September, 2018

<sup>101</sup> He was an elder and peacemaker from Rhamu town in Mandera and wielded influence across Somali communities in North Eastern Kenya.

look for a permanent solution for the recurrent violence surrounding every general election. When the entire country embarked on writing a new constitution, the drafters and other interested parties even omitted the power sharing mechanisms in the 2008 National Accord that had been instrumental in settling the widespread violence instead reverting to a purely presidential system that has always been blamed for the perceived marginalization.

Xeer<sup>102</sup> tradition which is an age old culture among Somali Clans where they mobilize their kin when faced with difficulties has often been taken advantage off by politicians who have seen it as an opportunity to consolidate their support base. Clans have been using this cultural provision to drum up support for their members to take up leadership positions and at the same time ejecting rival clans especially towards general elections. During a focused group discussion, one respondent pointed out that the glue among clan members is so that in case of an issue, clan members are able to pull resources together to sort out the issue. One participant gave an example where a distant uncle had an issue and people all the way from Namanga at the Kenya-Tanzania Border to those in the United States contributed funds towards settlement of the issue.<sup>103</sup> Despite devolution having been created to right historical wrongs such as marginalization, in places like Mandera it intensified competition over political positions. Most clans in the county see political positions as a guarantee for accessing resources and also an insurance against domination by other clans.

Mandera County is near homogeneous by virtue of being inhabited by ethnic Somali Clans. However, when you take a closer look and study each of the clans, you will realize that they are heterogeneous in many ways. Nonetheless, the four major clans observe and respect the Somali customary law known as Xeer. The clan among the Somali Society is a key unit of social structure. While identifying yourself by your clan is not a conflict trigger, its manipulation for electoral purposes is the main impediment to achieving peace. Politicians in electoral democracies especially among the Somalis have taken advantage of the community's loyalty to clan to mobilize for votes along clan identities. In Mandera for example, during electioneering

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<sup>102</sup>Xeer is a set of societal rules developed over time by traditional elders to ensure peaceful coexistence amongst Somali clans and sub-tribes. The main principles of this customary law include the traditional clan assemblies, the council of traditional elders as a key organ for conflict resolution and the collective payment of blood compensation.

<sup>103</sup>Focused Group Discussion for Mandera youths held in Mandera Town on 25th August, 2018.

period, clans label other clans as expansionists for purposes of frustrating them from registering as voters. The Garre for instance, view the entire Mandera as their ancestral homeland and perceive the Degodia together with the other clans as outsiders out to dominate them.

In the run up to the 2013 general elections, Garre teamed up with the Murulle Clan from the larger Somali Tribe to lock out the Degodia. Even though, the main intention of negotiated democracy is to bring about peaceful transitions and ensure marginalized communities are represented, it can be easily abused to lock out other communities from leadership positions.<sup>104</sup> Most respondents believed that the Degodia have their own county which is Wajir and therefore they have no right to insist on being included in the leadership of Mandera County. Garres believe that the Degodia have expansionist tendencies which have been evident in the way their kinsmen treat other clans in Wajir. Following the events of 2007 in the then Mandera Central Constituency, the Garres believed the stereotypes that the Degodias were out to dominate them. During the delimitation exercise after the promulgation of the 2010 Constitution, Mandera Central was changed to Mandera North creating the notion among the Degodia that the constituency had been carved out for them. However, the Garres mobilized themselves in the run up to the 2013 elections which enabled a Garre candidate to win the seat.<sup>105</sup> There were some incidents of electoral violence although not of the magnitude of what had happened in 2007.

Initially the Degodia were not much interested in politics and commerce in the county, but in the recent years, especially with the ushering in of the 2010 Constitution and earlier introduction of the Constituency Development Fund (CDF), they are increasingly becoming more interested in elective posts. Their newfound interest has not gone down well with the Garre who are the majority in the county and have always dominated politics. A recent example is the 2007 contest over the Mandera Central seat (now Mandera North). Abdikadir Mohammed, a Degodia candidate defeated the incumbent Billow Kerrow, a Garre. The result of that election triggered violent clashes and simmering tensions between the two clans that lasted between 2007 and 2013. This conflict spread to the neighbouring Wajir County where the Degodia are the majority. The conflict over electoral democracy in Mandera County is not limited to the Garre and

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<sup>104</sup>Of clans and negotiated democracy, an article by Guleid, Mohamed appearing in The Standard of 22<sup>nd</sup> August, 2016

<sup>105</sup> Focused Group Discussion for Mandera Youth held in Mandera Town on 25<sup>th</sup> August, 2018.

Degodia alone. Murulle have also been accused of putting pressure on their neighbours, the Corner Tribe, to compel them to support Murulle candidates for Mandera East parliamentary seat. Most of the respondents from Mandera who are not Garres, claim that the Garres use their numerical strength to lock out other clans from governance and resource allocation.

### **3.3 Kenya's 2010 Constitution: Devolution**

The Constitution of Kenya, 2010 led to adoption of the devolution system of government.<sup>106</sup> The system of governance gives room to citizens to exercise their sovereign power as stipulated in the constitution. It allows for power and attendant resources to be devolved to the 47 counties. Under the old constitution, power was centralized but devolution decentralized some of these powers where the two levels of government complement each other. County governments established under the new constitution are based on democratic principles and separation of powers, able to raise revenue that will enable them to offer services effectively and that no gender should constitute more than two thirds of the elected representatives.

Devolution, being one of the important features in the 2010 Constitution, was expected to cure some of the historical injustices such as marginalization that had been perpetuated by post-independence regimes. For instance, Sessional Paper Number 10 of 1965 advocated for concentration of development in high yield areas while neglecting the marginalized regions such as Mandera. The then economic blueprint as was the case in many other African countries fresh from independence saw it necessary to lay more emphasis on economic growth because, as the country developed, this wealth would trickle down to benefit the poorest segments of society. Devolution therefore was supposed to correct all these historical wrongs. Instead of bringing hope in these erstwhile forgotten areas, it became a source of new conflicts in Mandera by intensifying competition for political positions. The people of Mandera received devolution with enthusiasm seeing it as an opportunity to lessen the county's historical relegation and underdevelopment. Indeed this optimism is justified by a number of factors ranging from poor literacy levels that have led to poor quality of life. According to the United Nations Population Fund (UNFPA), Mandera's maternal mortality ratio is 3,795 deaths per 100,000 live births making it one of the least safe places for a woman to give birth. Frequent incursion of Al-

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<sup>106</sup> The Constitution of Kenya, 2010, Chapter 11 on the Devolved Governments

Shabaab terrorists from the neighboring Somalia and other bandits from Ethiopia have exacerbated the security situation in the county. These challenges have led to the flight of teachers, doctors, and other civil servants from Mandera, denying the local population of basic services such as education and healthcare.

Devolution in Mandera amplified competition among clans for various elective positions. This is because substantial resources were devolved from the national government pushing clans to outdo each other over who should determine how these resources are to be shared. The governor's position is the most coveted because of the control the holder of the position has over devolved funds and other privileges like employment opportunities. The Member of Parliament (MP) is the second most sought after position because of the holder's control on the Constituency Development Funds (CDF). There is also stiff competition for the Member of the County Assembly (MCA) position because of their leverage in the county government through their oversight roles. Mandera North as we had seen earlier experienced the most conflicts over the MP and MCA positions.

Drafters of Kenya's 2010 Constitution being alive to the historical intrigues that led to the clamour for a new constitution, without doubt, settled for a compromise document. The Kenyan governance system employs in many aspects a system of checks and balances to prevent excesses that had been witnessed during the previous constitutional dispensation. By keenly looking at various Articles of the 2010 Kenyan Constitution, elements of negotiated democracy are much present through provisions such as incorporating public participation before passing any legislation.<sup>107</sup> Indeed, public participation promotes democracy in general by according the populace an opportunity to take part in decision making. Public participation can be seen through the budget making process and other legislative processes. For instance Article 174 (c) states that the objective of devolution is to enhance people's participation in decision-making by giving them powers of self-governance.

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<sup>107</sup>The Constitution of Kenya, 2010 under Article 1(1-4)

### **3.4 The Journey to Negotiated democracy in Mandera: From Takaba to Banisa**

In April 2010 the Garre community in a general assembly<sup>108</sup> in Takaba in Mandera West came up with a community charter that stipulated how political and other leadership positions in the county were to be distributed among its twenty clans and neighbouring friendly communities. Other Garre from Ethiopia and Sudan led by their Ugaas and Sultans respectively were also invited. After four days of negotiations they adopted the Garre Community Charter, Maalim Noor a Garre elder and former head teacher, was selected as the chairman of the Garre Council of Elders. The adoption of the charter was for the purposes of averting violent conflicts especially during the 2013 and subsequent general elections and at the same time ensuring that the Garre did not lose elective posts in electoral units where they are the majority. The Garre Tribe is made up of 20 clans and 4 sub tribes that include: Taule, Sabdawa and Kalula (Reer Ali Sub Tribe), Meed, Kalwina, Reer Mug, Kalmasa, Bursuni, Odhomai, Makhabile and Tubaadi (Adoola sub tribe), Dharawa, Odhkoya, Birkaya, Kalwasha, Oytira, Urdheeq and Sugubtire (Furkesha sub tribe), Banna and Kilhiya (Asare sub tribe). The charter also established principal and subsidiary organs which include; the General Assembly, Council of Elders composed of 21 elders and the Executive committee representing the four sub tribes.<sup>109</sup> The Council of Elders is the supreme organ of the community complete with veto powers just like the five permanent members of the United Nations Security Council (UNSC).

In the current constitutional dispensation, parliamentary and county government posts come with the control of huge budgets and political influence that has slowly turned competitive politics in most parts of Kenya into a zero sum game. The old mechanisms that had been put in place by local communities and the provincial administration have neither the experience nor capacity to handle electoral related conflicts. In the quest to unite the Garre Community, the Garre Council of Elders and professionals from the community had first formed a Nairobi based caucus that was tasked to vet and endorse one of the contenders among the three from the community who had declared interest in the gubernatorial position. The 21 member council that was chaired by Maalim Ali Noor endorsed Ali Ibrahim Roba after what they termed as a grueling traditional process that had lasted for more than two years. The process involved interviews and factoring in

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<sup>108</sup> The general assembly is one of the four principal organs as established by the Garre Community Charter, 2010 and where members of the community meet to discuss major issues affecting the community.

<sup>109</sup> Garre Community Charter, 2010

sub-clan factors. According to Hassan Issack Hache who was among the professionals that had come up with the idea of negotiated democracy in Mandera, the selection was not arbitrary as has been portrayed by the opponents of the consociational model. Instead, each major sub-clan was tasked to come up with the names of three candidates for whatever position they had been allocated and it is from the three nominees that the elders took through interviews to come up with the best candidate based on education, moral issues among other competencies.<sup>110</sup>

Apart from the gubernatorial position, other elective seats that were subjected to negotiated democracy included that of Deputy Governor, Senator, MPs, Women Representative and MCAs. For the senatorial seat, elders settled on Billow Kerrow, a seasoned politician. Other candidates that were selected through the negotiated arrangement included MPs for four constituencies where the Garre are the majority. These were; Abdi Haji (Banisa), Adan Nur (Mandera North), Maalim Mohamud (Mandera West) and Mohamed Huka (Mandera South). To accommodate the other clans, the deputy governor's position, together with MP positions for Lafey and Mandera East were left for the Murulle. The Corner Tribe was given Khalalio Ward position in Mandera East. According to Maalim Ali Noor the then chair of the council of elders, the idea of minimizing competitive politics through negotiated means was to make sure that the internal Garre disagreements did not affect the community's preparations from taking over the leadership of the county. In addition, the elective seats were supposed to be rotational among the Garre Sub-Clans in their allocated constituencies to foster unity among them and also to prevent the Garre from losing out to the minority Somali Clans. After the 2013 general elections, all the candidates that had vied with the blessings of the elders won their seats. The Murulle took the Lafey and Mandera East MP positions. In total, the Garre elders endorsed 26 candidates including MCAs and all were elected.

Interestingly, the Degodias were locked out in the 2013 elections in all parliamentary seats in the county. Some of the Garre who were interviewed insist that the Degodia have their own county and there was no point of accommodating them in Mandera. However, respondents from the Degodia Clan especially in Mandera North said that the Garre had mobilized voters from other parts of the county to register in the constituency to ensure that they had more numbers to defeat

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<sup>110</sup>Hache, Hassan Issack, Interview with Luvate, Shadrack, key informant interview, Nairobi, September, 2018



Degodia candidates. These allegations are corroborated by professionals from both Garre and Degodia clans who insist that the Garre Council of elders together with seasoned politicians from the community facilitated a large number of voters especially from Banisa, Mandera West and Mandera South to register in Mandera North which ensured a Garre candidate clinched the seat.<sup>111</sup> In fact, there were incidents of violence during the electioneering period in the constituency because of heightened tensions and rumours of imported voters. This Mandera North example during the 2013 elections clearly shows us the limitations of negotiated democracy where the majority in some instances can come up together to lock out one community. For example in Kenya's Marsabit County during the 2013 gubernatorial elections, minority communities formed an alliance that defeated the candidate of the major ethnic community. The Rendille, Gabbra and Burji fielded one candidate under their alliance REGABU (an acronym for REndille, GAbbra and BUrji) to defeat a Borana candidate.

In addition to sharing the elective seats from gubernatorial to MCAs, the incoming county government was supposed to ensure that all the executive county positions and other appointments were in line with the community charter. The county assembly was tasked with the duty of ensuring that the county government did not deviate from what had been agreed upon. However, most of the residents from the county observe that the main purpose of the negotiated democracy was to unite the Garre who felt threatened by the assertiveness of other clans especially the Degodia. Most respondents from Banisa, Mandera South, North and East hail the Garre Charter for uniting the Garre Community and its clans amidst political competition from other clans from the larger Somali Community such as the Degodia. Youthful respondents from Mandera South particularly insist that the charter helped the Garre to regain its political might that had been under threat. Elders and religious leaders interviewed across the county said that the charter which is highly anchored on consociational democracy model was very progressive despite few challenges such as vagueness in certain areas like not explicitly pointing out time limits for elected leaders before rotating the leadership to leaders from other clans and sub-clans. Proponents of the negotiated deal who are not Garre especially from Lafey and Mandera East say that it was paramount for the Garre who are the majority in the county to unite first before the unity could be extended to the rest of Somali Clans residing in the county.

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<sup>111</sup> Focused Group Discussion for Mandera Youth held in Mandera Town on 25<sup>th</sup> August, 2018.

Some respondents especially from Mandera North are critical of the negotiated arrangement whose idea was mooted by the Garre Council of Elders. What came out clearly was that the events in Rhamu in 2007 that saw Garre losing out the seat to a Degodia who are a minority was the reason the Garre elders opted for the consociational democracy principally to negotiate out the Degodia. The Garre who were the majority in the constituency which has since been renamed Mandera North, fielded three candidates for the parliamentary seat which made it easy for a Degodia candidate, the minority clan to clinch the seat. This win exacerbated the enmity and rivalry that had existed between the two clans. So to Degodias, the negotiated agreement that was dominated by the Garre was not genuine but rather a mechanism to lock them out of the political equation in Mandera County leadership. Garres insist that Degodias do not belong to Mandera and should therefore go to Wajir and Ethiopia where they are mostly populated. Some of the respondents added that during the Takaba Declaration that gave birth to the Mandera's negotiated deal, Garre elders had encouraged prominent people from the community and all Garre who had means from Mandera South, Banisa and Mandera West to register as voters in Mandera North to ensure that they had enough numbers to defeat the Degodia. However, despite these reservations on the purpose of the negotiated deal, most still agree, that it contributed to peace after the 2013 elections.

Negotiated democracy puts more emphasis on proportionality which determines how power and political representation is distributed and also how resources are shared. Djibouti has been a success in that it allocates political seats following a clan and sub-clan system but still alongside a majoritarian electoral system. A downside to this is that it becomes difficult for the opposition to gain power because of the perception brought about by the sense of inclusiveness.<sup>112</sup> Indeed the Mandera case tends to follow the strength of clans in the way political seats are shared. Garres took all the parliamentary seats in the four constituencies where they dominate while Murulle took the remaining two constituencies. However, the omission of the Degodias gave room for dissent that resulted to some pockets of violence in parts of Mandera North. Media reports in 2013 and 2014 confirm that the Garre Clan members who had been evicted from Wajir

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<sup>112</sup>Le Van, C., Power Sharing and Inclusive Politics in Africa's Uncertain Democracies, Governance: An International Journal of Policy, Administration and Institutions Vol. 24. No.1, January 2011

started settling in Mandera North ideally to outnumber the Degodias.<sup>113</sup> A number of elders from various constituencies in Mandera, while trying to justify why the Degodia were not considered during the power sharing, argue that the main contentious issue in the Garre-Degodia conflict is land and a political solution alone cannot completely solve it.<sup>114</sup> Consociational model of democracy has been accused by many scholars of stifling the opposition and indeed Mandera's 2013 example confirms this assertion because Jubilee Party clinched all the seats locking out the opposition.

In August 2016 at Takaba in Mandera West, the Garre Council of Elders held a general assembly of the entire community to review how negotiated democracy had performed during the past five years and at the same time select candidates to represent the community in the upcoming elections that had been scheduled for 8<sup>th</sup> August, 2017. In an unprecedented move, all elected leaders that had been in office since 2013 ranging from the governor, senator, women representative, MPs and MCAs were asked not to seek reelection to pave way for a new set of leaders. However, a section of the incumbent led by Governor Roba rubbished the elders' resolution, instead taking advantage of the vagueness in the charter on the duration of the term limits.<sup>115</sup> Roba's group was also supported by the Constitution of Jubilee Party which advocated for party primaries instead of direct nomination which Mandera elders wanted. On realization that their preferred candidates would not be given direct tickets in Jubilee Party, the elders decided to form a new political party through which their candidates would vie. The party was called Economic Freedom Party (EFP) and all the candidates selected by the Garre Community used it to contest the elective positions they had been selected for.

The elders' line-up during the Takaba Declaration included Hassan Noor, a long serving provincial administrator from the Bana Sub-Clan who was picked to vie for the gubernatorial position. Hassan Osman from the Kalwana Sub-Clan was to replace Billow Kerrow who had accepted the elders' verdict. For the MP seats, elders settled for Aden Haji (Mandera West), Kullow Maalim (Banisa), Mohamed Ibrahim (Mandera North) and Abdikadir Aden (Mandera

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<sup>113</sup> MuchemiWachira, Claims of political control by clan fuel conflict in Mandera, Daily Nation of 26<sup>th</sup> August, 2014, Daily Nation

<sup>114</sup> Abdullahi, Salat, interview with Faiza Mohamed, personal interview, Elwak, 29<sup>th</sup> August, 2018

<sup>115</sup> Barasa, Lucas, 13<sup>th</sup> August, 2017, Ali Roba overcomes negotiated democracy in Mandera to win, available at [www.nation.co.ke/counties/mandera/Roba-overcomes--negotiated-democracy](http://www.nation.co.ke/counties/mandera/Roba-overcomes--negotiated-democracy)

South). Amina Gedow was endorsed for the position of County Women Representative. Courtesy of the 2013 negotiated democracy, Mandera East and Lafey were represented by the Murulle. Similarly in 2017, the Murulle Clan distributed the political seats in the two aforementioned Constituencies and Wards among its four sub-clans.<sup>116</sup> The Yabarseyn Sub-Clan was given the Lafey MP seat in addition to Alangu, Arabia and Warankara Wards. Mandera East Parliamentary seat was given to the Sharmake Sub Clan. The Lafey and Township Ward seats were also given to the sub-clan. The Kulow Sub-Clan took the deputy governor seat and the Libihiya and Sala Ward seats. Lastly, the Nacabsor Sub-Clan took the Fino Ward seat.

Following in the footsteps of their Garre counterparts, the Murulle too in August 2016 appointed its sultan alongside members of the council of elders from its five sub-clans. Interestingly, each sub-clan was allocated a number of seats in the council in proportion to their clan population. The Yabarseyn Sub-Clan was allocated 8 positions, Sharmarke (6), Kulow (4), Nacabsor (3) and Dalcowtire (1). Mohamed Khalif was chosen by the 92 officials from the various sub-clans as the sultan.<sup>117</sup> The main tasks of the sultan include managing conflicts and guiding the community. Proponents of the move term it as the best thing to ever happen to the community as the body will give the Murulle a clear direction on the sociopolitical front.<sup>118</sup>

In the 2017 elections, EFP lost 2 parliamentary seats to Jubilee Party, Mandera South which was won by Ali Adan Haji of JP against Hassan Mohamed Issack. The elders' choice also lost in Mandera North Constituency after Bashir Abdullahi Sheikh of JP defeated EFP's Abdi Mohamed Ibrahim. As had been expected, competition in Mandera North had turned into a clan contest between the Degodia and Garre but thanks to Governor Roba's defiance of the elders' decree, the Garre numbers got reduced hence leading to a Degodia capture the seat. Governor Roba in his own negotiated arrangement had fronted a Degodia (Sheikh) for the Mandera North seat which also boosted his chances for retaining the governor's seat. Interestingly, even after attacking the consociational model that elders had employed as being undemocratic, Governor Roba still went into the same arrangement with the Murulle and Degodia. According to Hache, the negotiated model in Mandera still applied whether it was JP or EFP and it is the arrangement

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<sup>116</sup> Economic Freedom Party dealt a major blow in Mandera, 10<sup>th</sup> August, 2017 available at [www.nation.co.ke](http://www.nation.co.ke)

<sup>117</sup> The Star, 19<sup>th</sup> August, 2016, Mandera clan crowns sultan, chooses elders

<sup>118</sup> Ibrahim, Ali interview with Astariko, Stephen in Mandera on 15<sup>th</sup> August, 2016

that ensured there was no electoral violence in Mandera North in 2017 despite a Garre losing to a Degodia.<sup>119</sup>

Even though negotiated democracy has been praised as being responsible for relative peace in Mandera during the 2013-2017 period, there have been reservations from a cross-section of scholars. According to Guleid, the Mandera case is an extreme case of negotiated democracy where a selected group of elders determine the fate of the political class. He terms it as a perverse form of democracy because the main rationale of dropping the current leadership is for purposes of accommodating the interests of other sub-clans and not entirely based on performance, as should be the case in a proper functioning liberal democracy.<sup>120</sup> However, proponents of the power sharing deal especially from Mandera view the rationale as having more direct benefits such as cohesion and tranquility that create an environment for other paybacks.<sup>121</sup> Ubaah Gedi, who had declared interest in vying for the women representative seat in the 2017 elections, criticized the negotiated democracy arrangement terming it as favoritism democracy because women were not represented on the negotiating table.<sup>122</sup>

### **3.5 Conclusion**

The above discussion clearly indicates just how far Mandera still needs to travel on the road to peace, security, and development. Even though negotiated democracy in the county has faced several challenges ranging from selfishness, lack of political trust and waning trust in the institution of elders, its achievements cannot be gainsaid. But with the introduction of negotiated democracy, clans are able to constructively engage each other with the knowledge that power and resources can be shared proportionately and the clans also know that they need each other for prosperity. This is important especially in the context of Kenya's devolution project, which has brought resources and services closer to the community but unfortunately, also emerged as another cleavage especially when it comes to electoral democracy where the clans and ethnic groups that are in power take advantage of those who are out of power.

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<sup>119</sup>Hache, Hassan Issack, Interview with Luvate, Shadrack, key informant interview, Nairobi, 3<sup>rd</sup> September, 2018

<sup>120</sup>Of clans and negotiated democracy, an article by Guleid, Mohamed appearing in The Standard of 22<sup>nd</sup> August, 2016

<sup>121</sup>Ali, Abdilleinterview with Mohammed Dida, Takaba, 29<sup>th</sup> August, 2018

<sup>122</sup>Astariko, Stephen, 9<sup>th</sup> March, 2017, Mandera Council of Elders face acid test as Roba and MPs reject negotiated deal, The Star

## CHAPTER FOUR

### NEGOTIATED DEMOCRACY AS A CONFLICT PREVENTION MECHANISM IN AFRICA: A CRITICAL ANALYSIS

#### 4.0 Introduction

This chapter provides a critical analysis of ways in which negotiated democracy can serve as a conflict prevention mechanism for electoral-related conflicts in Africa. The chapter critically looks at the current political environment and whether it is conducive for the adoption of negotiated democracy. It further examines whether negotiated democracy is a threat or an enabler to the African democratization process. The chapter also looks at the salient features inherent in the African culture and traditions that could necessitate adoption of the consensus model of democracy as opposed to other forms of democracy. The aim is to bring out clearly the strengths and weaknesses of the consensus model so as to point out ways in which negotiated democracy can serve as a solution to perennial electoral-related conflicts in Africa.

#### 4.1 Conducive Environment Necessitating Negotiated Democracy

In the conclusion of his book, *Patterns of Democracy*, Lijphart opines that the consensus way should be the first option for young democracies and those countries that are contemplating reforms. For societies that are deeply divided along ethnic and cultural lines, he prescribes the consensus model as an urgent antidote if they are to avoid joining the league of failed states.<sup>123</sup> Indeed cleavages along ethnic, cultural, language among other identities are deepening especially in Africa. It is these differences that are reason for cyclic election-related conflicts in most countries in Africa. For instance, the elections held in Cameroon in October 2018 were marred by violence following a separatist insurgency in the country's predominantly Anglophone region. The population in the region accuse the current regime of President Paul Biya of marginalizing and oppressing them by concentrating development in the Francophone region.

Most states in sub-Saharan Africa are made up of different nations and peoples organized along distinct ethnic, linguistic and even religious lines. These communities during the pre-colonial period lived side by side and traded with each other among other socio-economic and cultural activities. The European colonial powers in their attempt to foster domination and control forced

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<sup>123</sup> Lijphart, Arend, 2012, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*, Yale University Press

these diverse communities to live under one country. In agitation for freedom, African communities united with the main agenda being a nationalist anti-colonial struggle. However, after attaining independence the different nations that had been united during the fight against colonialism started pulling apart in their fight for control of the new independent states. This fight for control has assumed ethnic, religious and racial angles especially with the return of multi-party politics. Negotiated democracy which appreciates this diversity is the best suited model to ameliorate these electoral-related conflicts. The same way it was applied in Netherlands when dealing with sharp differences among the Catholics, Calvinists and Socialists can still be employed to address the growing differences among communities in African States. In Somaliland and Mandera County, the system appears to be working with local communities appreciating it.

Besides the colonial legacy, economics and other social aspects of African Societies are not yet fully developed. Homogenous and largely peaceful societies with developed economies such as the US or the UK with time have developed shock waves to deal with the highly competitive, confrontational and divisive electoral atmosphere that comes with multi-party politics.<sup>124</sup> However, heterogeneous and highly unequal societies mostly found in sub-Saharan Africa need a political culture that could manage and accommodate the societal fault lines. Kenya as a whole and counties such as Mandera demonstrate these inherent tensions and internal cleavages. Prior to the 2013 elections, Somali clans in Mandera County were deeply segmented and any threat to the political dominance of one clan could easily trigger violence during the electioneering period. An agreement to share power therefore, inherent in negotiated democracy models easily diffuses these tensions while creating a platform for continuous engagement and conflict resolution. Due to growing inequalities and general poverty in most parts of the African continent, political competition, a key feature of majoritarian democracy tend to be misused by political elites and politicians to consolidate their support base. So in the event of a political defeat, an entire community resorts to other means such as violence and ethnic cleansing to force for dialogue and power sharing. In Mandera, this had been the case until elders from the Garre Community decided to come up with the pre-election pacts to avert electoral-related conflicts.

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<sup>124</sup>Bormann, Christian, 2010, Patterns of Democracy and Its Critics, Center for International and Comparative Studies, ETH Zurich

As it is evident, identity be it tribal, clan or religious is very salient in African traditions. Among the Somali ethnic group in Somalia, Ethiopia and Kenya, clan identity remains the main characteristic under which members of a clan use to recognize each other. According to Muslim leaders interviewed in Mandera, the Quran is very explicit on the issue of identity and in fact states that the Creator made people into nations and tribes so that they could recognize each other.<sup>125</sup> Negotiated democracy puts this reality into consideration especially when laying out how elective seats and community leadership posts should be shared among clans and other various segments of a given society. On the other hand, majoritarian democracy ignores this fact and instead provides an environment for attacks of one's origin evoking emotions that may easily turn to violent confrontations. A section of youth from Mandera South opined that one of the main reasons the Murulle have been fighting with the Garre is over accusations by the former that the Garre are Oromo and not Somali especially during electioneering periods and are not supposed to lead them.<sup>126</sup>

Similarly, most African ethnic communities have grievances whether perceived or real against each other. And these wrong perceptions have always been passed down from one generation to another through mediums such as songs, poems and folk tales. Political entrepreneurs usually take advantage of these stereotypes for their own political gain. Leaders have become prominent simply by identifying with these grievances with the promise of saving their communities from their perceived aggressors. So when the self-appointed 'messiah' is defeated at the ballot box, the entire community bears the loss and shame hence triggering electoral-related violence. However, through pre-election pacts, a key feature of negotiated democracy, such scenarios could easily be avoided. Informal institutions such as the council of elders provide an environment to address the inherent grievances before they could escalate to electoral-related conflicts. Underlying economic and psychological issues easily magnify political competition into enmity. Even in situations where to a casual observer it may appear as a homogeneous community practicing the same religion, people will, however, still create differences based on other primordial factors.

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<sup>125</sup> Quran (Surah 49:11)

<sup>126</sup> Focused Group Discussion for Mandera Youth held in Mandera Town on 25<sup>th</sup> August, 2018



The case of Mandera and neighboring Somalia clearly shows that ethnic and religious homogeneity are not sufficient enough to prevent electoral-related conflicts.

Due to its flexibility and elasticity, negotiated democracy is best suited to forestall electoral-related violence. Politics in Africa are very fluid depending on the prevailing circumstances, central actors and the issues in contention. Majoritarian democracy tends to stick to the available institutions and what the law stipulates, which at times may not be applicable. However, negotiated democracy gives an allowance for every participant to be part of the solution while at the same time being cognizant of the prevailing circumstances. Similarly, what has been agreed upon earlier may serve as a point of reference when dealing with emerging issues especially during the post-election period. At one point when the Mandera County Assembly refused to approve what the Governor had proposed as his Cabinet, the pre-election pact was revisited paving way for the approval of the nominees.<sup>127</sup> At times you may find the political environment demanding for a change in law to cater for the prevailing circumstances that may make holding an election untenable. It is only in a consensus environment that such changes can take place without upsetting the Constitution.

In 2004, Robert Cooper had predicted a scenario where failing states or fractured nations were likely to increase in the developing world especially in Africa.<sup>128</sup> His prediction seems to be justified due to the absence of stable governments in countries such as Somalia, Democratic Republic of Congo and Libya. Electoral related conflicts and failure of multi-party democracy has always been at the centre of these perennial conflicts. The cyclic violence has also contributed immensely to slowing down of the democratization process. Similarly, resurgence of identity based mobilization not only in Africa but also the Middle East has put majoritarian democracy at its disposal.<sup>129</sup> Agbaje for instance calls for the need for more dialogue on perceptions of Africans on the meaning of democratization and democracy among the divergent cultures, people and states in Africa.<sup>130</sup> Most respondents from Mandera County while in agreement with Agbaje's assertion are convinced that the unhealthy competition present in

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<sup>127</sup>Focused Group Discussion for Mandera Youth held in Mandera Town on 25<sup>th</sup> August, 2018

<sup>128</sup> Cooper, Robert, 2004, *The Breaking of Nations: Order and Chaos in the 21<sup>st</sup> Century*, Grove Press

<sup>129</sup> Richard, Joseph, 2016, *Dilemmas of Democracy and State Power in Africa* available at [www.brookings.edu](http://www.brookings.edu)

<sup>130</sup> Agbaje, Adigun et al, 2006, *Do Votes Count? The Travails of Electoral Politics in Nigeria*, *Africa Development*, Vol. XXXI, No. 3, 2006, pp. 25-44

electoral democracy is the reason competitive politics have always ended up magnifying the differences among the Somali community in the County because of the perceived notion that the winner takes it all. Therefore, this environment of mistrust and doubts among the communities calls for an arrangement outside the normal electoral process and management systems and in line with the traditions and cultures to avert conflicts.

The opposition in Kenya especially towards general elections have always questioned why the leadership and in this case the presidency has always oscillated between two communities. In fact, in the run-up to the 2007 elections, popular sentiment within the main opposition ranks and its supporters was that it was a contest of forty one tribes against one tribe; in reference to the rest of the electorate (from 41 tribes) against the main ethnic group (Kikuyu) that for all intents and purposes was in power. This narrative played out again in the 2013 and 2017 general elections, this time made to appear as a contest between forty tribes against a coalition of the two main ethnic groupings. The Building the Bridges Initiative identifies ethnic antagonism and divisive political competition which have become a way of life despite reforms over the last 20 years. President Uhuru Kenyatta and Raila Odinga while agreeing that Kenya is made up of different nations and people advocate for open and honest discussion to formulate and implement the necessary corrective measures.<sup>131</sup> The Murulle for instance, insist that the consociational model adopted in Mandera County ensured that peace prevailed in most constituencies they dominate because Garre candidates were limited to their constituencies a move that has regulated inter-clan tensions.<sup>132</sup> The assurance that comes with negotiated democracy through sharing of elective posts not only guarantees the minority communities consideration in resource sharing but also the majority are assured that they cannot be shortchanged by a coalition of the minorities.

Another reason that makes negotiated democracy to fit well with the African political environment is the way African people view leadership as the means to an end. Because of its ability to provide a platform for continuous engagement in matters politics, negotiated democracy allows for the resolution of any emerging issues that could trigger conflicts among

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<sup>131</sup> Building the Bridges Initiative to a new Kenya launched by President Uhuru Kenyatta and Raila Odinga on 9<sup>th</sup> March, 2018

<sup>132</sup> Mohammed, Ibrahim, Personal Interview with Luvate, Shadrack in Lafey on 2<sup>nd</sup> October, 2018

communities that have entered into a pact. In Mandera County for instance, the elders had to intervene in more than one occasion between 2013 and 2017 when the Governor had issues with the County Assembly over the appointment of members to the County Executive, thus ending the impasse. Even though in other jurisdictions especially the Western world this could be interpreted as interference in the affairs of a democratically elected government, in an African setting the alternative could be violent confrontations. Africans also respect agreements more so if elders and other respected leaders of the community are involved. Those who violate these agreements risk inviting a curse upon themselves and their generations to come. This background therefore sets a conducive environment for negotiated democracy to thrive because it can accommodate such pacts. The Garre in Mandera believe the County is their ancestral homeland and their forefathers only allowed the Murulle and Degodia to graze their livestock but not seek leadership positions.

Quite a number of states in Africa have ethnic communities that are hegemonic and try to dominate other ethnic communities. Kenya has been a hegemonic state where certain communities try to dominate others. This problem can be traced back to the regime of Kenya's founding President Jomo Kenyatta where one community through historical accounts was portrayed to have suffered most during the colonial era and deserved to benefit most from the state resources in the post-independent era. This coupled with primitive practices whereby communities believe that if you have to be respected then you must fight and annihilate your enemy. Most African traditions promote the warrior culture and have the belief that brutal force and enslaving your enemy is the best way to stamp one's authority. This ancient practice is part of the reason electoral cycles in most African countries especially after the reintroduction of multi-party politics have always gravitated the countries towards a precipice due to electoral-related violence and conflicts that accompany these elections. Electoral victory by one community over the other is construed as dominance hence the reason they resort to violence. Take the case of Mandera where other clans feel that the Garre intend to dominate them. The Degodia in particular have been critical of the Garre Community Charter which aims to unify and rotate elective positions among the Garre sub-clans.

Consensus institutions are well suited for young democracies especially in Africa. These institutions are inclusive in nature and play a big role in stabilizing divided societies. The Garre

sub-clans before the enactment of the Community Charter used to compete amongst themselves allowing other clans to defeat them in these political contests. Instead of putting blame on themselves, they would unite and attack the victors resulting to post-election violence. However, after the enactment of the Charter, electoral-related conflicts have greatly reduced and the unity wave has spread to the neighbouring clans who are also coming up with clan unity for purposes of bargaining for a share of political power. The Murulle, who for a long time had been rivals to the Garre successfully negotiated for the Deputy Governor position both in 2013 and 2017. By occupying the second powerful position in the county leadership, inter-clan tensions especially fuelled by political competition between the Garre and Murulle have seen a remarkable reduction. The political unity has also assisted in solving other clan disputes especially those revolving around boundaries, pasture and water.

The current political environment in Africa is promising because of the ever growing willingness by the elite to compromise and agree to political solutions. Similarly, all the segments in a particular state are interdependent in one way or the other, hence increasing the incentives for consociationalism. Globalization and the prominence of international organizations like the International Criminal Court, are making African elites to abandon their long desired dreams of clinging to power and stifling the opposition. Recent events in places such as South Sudan where President Salva Kiir agreed to allow back in to government his nemesis and former Vice President Riek Machar following international mediation is a good case in point. Even in Kenya President Uhuru Kenyatta and Raila Odinga the opposition leader jointly formed the Building the Bridges Initiative to unite the country after a divisive general election in 2017. In Mandera too, the Garre, though the majority have accepted albeit reluctantly to share power with other clans, a move that is paying dividends in form of peaceful coexistence and transitions.

But as it is becoming clear, competitive politics in an environment devoid of genuine ideologies besides having high rates of corruption is an antecedent to violent conflicts especially during electoral contests. Most political parties in the continent are not anchored on strong ideological background like the case in established democracies. Instead, the parties are based on ethnicity, religion or even at times as clubs of corrupt elites with the intention of capturing political power to protect their interests. Attempts by political institutions such as electoral bodies to instill

political discipline by barring those who have integrity issues have always been met with opposition from their electoral support base. Even efforts by the international community to intervene in such situations have always been frustrated by strong political undercurrents. Much publicized war on corruption always end up a cropper because of political interference, as one side of the political divide would say their people are being targeted. However, countries that have employed consensus models such as Botswana have witnessed great success in the war on graft and other vices that are a threat to peace and the overall democratization process.

#### **4.2 Is Negotiated Democracy a threat to the African Democratization Process?**

Collective approach in the management of public affairs fosters a feeling of inclusion – which sadly has been lacking in many states in Africa – which ultimately leads to a commonly agreed destination. Negotiated democracy, which has the ability to facilitate exchanges between actors as opposed to other forms of governance offers an opportunity to alter these political dynamics that have replayed over years at times with devastating results. For a start, discussing and agreeing on the rule of the game in an open and honest manner, in the long run prevents future calamities. Through negotiated democracy, actors are able to formulate and implement all corrective measures. By sitting and agreeing on the way forward, actors avoid passing on dangerous divisions and misconceptions to future generations. This sense of collectivism also assists electoral institutions in conducting their functions by according them the much needed goodwill from the public.

Condoleeza Rice affirms that democracy at its inception is usually flawed and therefore the question should always be how can we better this flawed system to survive, move forward and become stronger. She continues to say that there is no ethnic group that lacks DNA to sustain a democracy be it in Africa or other parts of the world.<sup>133</sup> Democracy can still thrive anywhere even in places that are thought to be too tribal or divided along other cleavages. Chile, Ghana and South Korea according to Condoleeza are good examples that democracy can still fit anywhere. Many scholars while trying to answer why democracy has failed in Africa cite the lower levels of education and poverty as impediments to the establishment of stable democracies. Indeed, for democracy to thrive there may be need to address the aforementioned issues that

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<sup>133</sup> Rice, Condoleeza, 2018, Democracy: Stories from the Long Road to Freedom, Grand Central Publishing

divide the society. The ability of negotiated democracy to accept that there are fundamental issues to be addressed first before going to a competitive electoral process makes it not a threat to the African democratization process but rather an enabler by serving as a conflict prevention mechanism.

Negotiated democracy political processes and especially the consociational model regulate competition among groups with conflicting preferences. As a result of entrenched politics of ethnicity in sub-Saharan Africa, competition for electoral posts tend to follow ethnic lines. This has resulted in political parties being formed on the basis of ethnicity hence defeating the whole purpose of strengthening democracy purely on the foundations of ideas. In places where there is one ethnic community like the case of Somalia and even Kenya's Manderu County, these cleavages usually take the form of clans and sub-clans leading to electoral related conflicts in the event the results are not acceptable to all. Therefore, the consensus building through negotiations ensures that interests of every participant in a polity are catered for in full or partly where compromise is concerned. By accommodating the views of the majority prior to an election, the election is only left as a formality and not as a do or die exercise as in the case of majoritarian democracy.

The aspect of proportionality in terms of appointments to the public service, distribution of financial resources among the different segments makes negotiated democracy a better system of governance for the segmented societies in Africa.<sup>134</sup> Consociationalism advocates for the distribution of resources while being guided with the proportional strength of each autonomous segment.<sup>135</sup> This is in contrast with majoritarian democracy where the winner takes it all. The unequal development in African states can be blamed on the majoritarian system which is prone to biasness in regard to distribution of resources. It's no secret that the public service of most African countries is dominated by members of few ethnic communities at the detriment of the rest of the population. The situation becomes worse in states where the government is the main employer because of an underdeveloped private sector. African states that have recently changed

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<sup>134</sup> Lijphart, A Lijphart, Arend, 2012, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*, Yale University Press

<sup>135</sup> Armingeon, Klaus, 2002, *The effects of negotiation democracy: A comparative analysis*, *European Journal of Political Research* 41: 81-105

their constitutions like Kenya tried to include provisions for mandatory affirmative action, but this have had little effect on the status quo. In Kenya, surveys by the National Cohesion and Integration Commission (NCIC) continue to show that the country's public service is dominated by a few ethnic communities while the majority of the 42 tribes are hardly represented.<sup>136</sup> Some of these obvious inequalities are the reason general elections have become do or die events.

Coercion and violence has been accepted as legitimate means of resolving political disagreements in situations where there is lack of trust in electoral management institutions and laws. Because of a history of electoral malpractices such as vote rigging, the electorate have lost faith in the institutions mandated to manage elections. Even in a fair competition there will still be calls of dialogue because of the feeling of unfairness and exclusion in the electoral outcome. Negotiated democracy on its part introduces complimentary institutions like the council of elders and power sharing formulas that are consistent with African traditions that demand for dialogue, compromise and equity are the main driving factors. Additionally, the new platforms created by negotiated democracy compliments the existing formal institutions and laws. In Botswana and Somaliland, complimentary institutions have ensured full participation of the community in the electoral process. In Mandera County, the Garre Council of Elders and the General Assembly have increased the trust of the populace in the electoral process. For instance, there was relative peace in 2013 as compared to the 2007 electioneering period. In 2017, there was relative peace in Mandera North despite a Garre losing the seat to their archrivals, Degodia, which could be partly attributed to the negotiated arrangement that saw Governor Roba in his line-up fronting a Degodia candidate.

As evident in the Mandera case, negotiated democracy gives greater attention to political activities that happen outside formal institutions hence giving room for greater public participation. This makes it to be the only modern form of democracy closest to what was practiced during the Greek City States. For example in Mandera, Garre sub-clans have the liberty of selecting those that they would like to represent them and then forward the names to the Council of Elders who finally pick the most qualified candidate after a rigorous process of interviews and background checks. This process ensures that community members as low as the

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<sup>136</sup> NCIC Survey on ethnic composition in public service conducted in 2011

sub-clan level participate in selecting their leaders bringing about a sense of accommodation which could not be present in a highly majoritarian system that is punctuated with political campaigns and divisive phrases such as tyranny of numbers. Similarly, the outcome of a negotiated process is owned by the entire community and hence protected by all. Since it is a process and not an event, those with dissenting views with time come to accept what the community has settled for, thus limiting areas of conflict.

Apart from the general elections, political party primaries in Africa are known to be divisive as well as ridden with injustices that eventually affect the outcome of general elections. Party tickets in some instances are given out unfairly to unpopular candidates because of interference by 'party owners'. Cases of buying party tickets by wealthy candidates are also rampant clearly proving that the playing ground is not fair to all, once again showing that negotiated democracy is the better option. When Garre elders realized that Jubilee Party was not going to agree to their demands of direct party tickets for their candidates they decided to form their own political outfit. Proponents of the elders' formulae accused Jubilee Party of already having predetermined candidates especially the incumbent leadership while ignoring that in 2013, the community had an agreement of rotating the seats among clans and sub-clans in the county.

This is evidence enough that major political parties may kill democracy either by default or design when they ignore pacts that had been entered by communities at the grassroots level. African culture is informed by pact making which at times traverses generations. For example, Garre elders when allowing other Somali Clans into Mandera had a pact that the visitors would be subjects of the host community. Failure to stick to this pact by the other clans is one of the reasons for frequent fights among the clans.

Actors in a consociational model cannot pursue their own goals without support from other political actors. Negotiated democracy therefore brings to reality the fact that attempts to marginalize one section of the society will eventually destabilize the whole political situation. Attempts to leave out the Degodia in 2013 made Mandera's negotiated arrangement shaky, a loophole that Governor Ali Roba took advantage of to defeat a candidate that had been selected by the Garre Community Elders. The reality that the communities either band together to prosper



or go individually at the detriment of disintegration gives a boost to the African democratization process while at the same time serving as a conflict prevention mechanism. This element of negotiated democracy is closely related to the Prisoner's Dilemma proposition that we are either hanged together or hanged separately. By allowing ethnic communities in a particular state to come up with binding pacts also assists in gluing the diverse communities hence contributing towards nation building while also preventing eruption of violent conflicts in the event of a disagreement.

Power sharing which is one of the main components of negotiated democracy has been considered as one of the most important conflict prevention and resolution mechanisms. The 2004 United Nations Report on Ethnicity and Development calls for the accommodation of ethnic diversity, religion and culture if the society is to avoid ethnic related conflicts. The report buttresses on the need to nurture policies that advocates for wider political participation. It comes up with two proposals for securing the rights of diverse groups. One, it recommends for a federalist system in situations where minorities are concentrated in a particular territory. The other proposal involves sharing of power through consociations to cater for dispersed culturally diverse groups.<sup>137</sup>

Elements of consensus building that are present in negotiated democracy puts it at an advantage in dealing with a history of conflicts that are prevalent in the African Continent. Similarly, its nature of being kind and gentler enables it to be a proper tool in correcting past injustices and wrongs that have always been termed as the root causes of violence during electioneering periods. Consociationalism promotes solidarity which in turn leads to social balance which is credited to the stability enjoyed by Switzerland.<sup>138</sup> Its ability to contextualize a conflict situation sets it above other forms of democracy that are more preoccupied with competition as opposed to consensus building. This over-concentration by political parties and elites in Africa on the number of those who have registered as voters in their strongholds is one of the reasons that has been fanning ethnic clashes that are targeted at disenfranchising a section of voters perceived to be outsiders.

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<sup>137</sup> United Nations Report on Ethnicity and Development (2004)

<sup>138</sup> Schmidt, M., 2015, Switzerland's political performance compared: determinants of a success story, Swiss Political Science Review 20, 413-426

### **4.3 Negotiated Democracy and African Political Culture**

There are multiple forms of democracy both in the developed or developing states. These different forms of democracy have attendant political institutions that are informed by country specific circumstances or copied from other jurisdictions. After the third wave of multi-party democracy, African leaders at the time adopted aspects of democracy that benefitted their personal interests. This in part occasioned the poor functioning of democratic institutions and their credibility.<sup>139</sup> However, countries such as Botswana and Mauritius that employed some form of negotiated democracy from the onset have continued to enjoy economic prosperity and peaceful electoral transitions. In contrast, their counterparts such as Kenya and Nigeria have been grappling with difficulties in managing peaceful electoral transitions and ethnic diversity. Botswana for instance employed democratic aspects of African culture while doing away with the autocratic elements. In essence negotiated democracy puts a lot of emphasis on positive elements of the African culture such as popular participation in the decision making process, demanding accountability from the leadership, as well as consensus building.

The social structure of most African communities require a system of governance that blends well with its main components. Democracy as a whole borrows most of its practices from the capitalist culture that advocates for individualism and other self-centered practices that are considered alien to African way of life. African culture promotes a welfare society where individuals are identified by their tribe, clan and family. Kinship ties are very strong and the elders of a particular clan are sacrosanct. It is the elders in most African communities that will determine the leadership and overall direction a particular community may take. In fact when politicians are campaigning for political office, it has become a common practice for them to seek out tribal elders for their blessings before asking for votes from the community members. In Kenya for instance, politicians go to the extent of being crowned as elders of a particular community purposely to gain overall acceptance. In 2013, the Jubilee Party entered into a pact with the Garre elders, a move that aided the party to sweep all political seats in addition to its

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<sup>139</sup> Gumede, William, Is Culture an Obstacle to Democracy? Available at [www.democracyworks.org.za](http://www.democracyworks.org.za), Accessed on 1<sup>st</sup> October, 2018

presidential candidate garnering more than 80% of the total votes cast in the county.<sup>140</sup> The attribute of negotiated democracy that allows it to incorporate unique aspects of the African social structure such as the institution of elders places it as a mechanism of choice in preventing not only electoral conflicts but also other forms of conflicts inherent in Africa. Majority of respondents from all clans in Mandera are unanimous on the centrality of Ugaas in decisions taken by the community.

Religion too, which is also part of culture is very central in determining the political direction of African communities. Political Islam especially in places such as Somalia and Mandera is a key component in guiding the society to believe the outcome of an electoral process. Surprisingly enough, the winner-takes-all kind of politics goes against the teachings of many religions which on the contrary advocate for sharing and being mindful of the weak in society. The Garre Community Charter in its preamble highlights the centrality of Islam in the undertakings of the community. Being a practicing Muslim is one of the conditions a candidate must possess for him or her to be nominated by the community to vie for any political seat in the county.

Traditional institutions have remained significant in the African Continent and are usually the most preferred point of call in the event of conflicts. This traditional governance which comes in form of kings, sultans, chiefs and elders is still an important part of socio-political life in most parts of rural Africa.<sup>141</sup> These traditional institutions are usually the most preferred point of call in the event of conflicts because of their natural linkage with their communities. In Ghana for instance, traditional leaders who are usually unelected work hand in hand with elected leaders to support the programmes of the government. The duality of leadership accords society extra institutions for conflict resolution.<sup>142</sup> In the event of a dispute over an election the traditional chiefs may come in handy in resolving the issue. If a traditional leader who commands respect from his or her subjects endorses an electoral process and the subsequent outcomes, then there is a likelihood of a peaceful transition. Negotiated democracy, as we have seen in the case of Mandera recognizes these traditional institutions making it an appropriate tool for averting

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<sup>140</sup> Abdille, Ali, Personal Interview with Luvate, Shadrack in Takaba on 3<sup>rd</sup> October, 2018

<sup>141</sup> Afful, Kofi, 2015, Traditional Governance Influence on Democracy in Africa, Master's Theses, City University of New York (CUNY)

<sup>142</sup> Baldwin, Kate, 2015, The Paradox of Traditional Chiefs in Democratic Africa, Cambridge University Press

electoral-related conflicts in Africa. These traditional institutions if well utilized can guarantee smooth transitions and wider acceptability of electoral results.

#### **4.4 Analysis of the Pitfalls of Negotiated Democracy**

Apart from many scholars who have argued for negotiated democracy we do have others who have argued against political inclusion which is the cornerstone of negotiated democracy. For instance, Le Van posits that political pacts especially those entered after elections are a great threat to political competition, which is the hallmark of democracy. However, stability and peaceful transitions presupposes any form of competition. However, agreements can be abused by incumbents who are not willing to relinquish power or those who have lost elections to cleverly manoeuvre their way to power. Political inclusion termed as one of the main objectives of negotiated democracy has also some visible downsides even though its usefulness in conflict resolution and peace building is well known. To begin with, it has been shown to be inimical to vertical political relationships that offer a good environment for accountability. Similarly, some of these pacts are known to be costly like the Kenyan case of the National Accord of 2008. Additionally, they may result to gridlock during bargaining in some instances and may occasion policy fragmentation.

Negotiated democracy puts more emphasis on proportionality which determines how power and political representation is distributed and also how resources are shared. Djibouti has been a success in that it allocates political seats following clans and sub-clans system but still alongside a majoritarian electoral system. A downside to this is that it becomes difficult for the opposition to gain power because of the perception brought about by the sense of inclusiveness.<sup>143</sup> Negotiated democracy in attempts to accommodate views and interests of as many segments of the society as possible inadvertently kills the institution of the opposition. The opposition is an integral part of a democracy that keeps the government of the day in check. Without a proper functioning opposition, the government may oppress the poor with actions such as unilaterally increasing taxes and passing unpopular legislation among others. So even though negotiated democracy may be credited with bringing about peace, its downside includes an excessive

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<sup>143</sup> Op. cit.

government that may easily resort to dictatorial tendencies if other sectors such as the media and civil society organizations are not very vibrant.

An incomplete consociational process may also turn out to be a threat to peace and stability during multi-party elections. The 1993 Rwanda's transition case is an example of a failure of this arrangement. This is because the power sharing agreement that was in place collapsed and the entire state descended into the infamous genocide.<sup>144</sup> Similarly for negotiated democracy to be sustainable it means that there should be no dominant group in a given society. Majority groups would normally prefer the majoritarian type of democracy because they believe they have numbers to win elections. So they will only agree to consensus arrangements when they are momentarily weak and sabotage it when they regain their strength. However, as we have seen in most African countries, minority communities usually form coalitions which they use to topple or defeat the major ethnic groups. In Marsabit County in Kenya, three small ethnic communities that is the Rendille, Gabbra and Burji formed a coalition in 2013 which enabled them to defeat a candidate from the majority Borana Community for the gubernatorial position.

Some scholars have argued that consociationalism and by extension negotiated democracy as a whole freezes conflicts and cleavages by institutionalizing them. By doing this, negotiated democracy models prevent society from undergoing genuine and proper integration in all aspects of life.<sup>145</sup> To this school of thought, consociationalism does not reflect the social realities which are recipes for more underground tensions. Marxists and nation building proponents dismiss the crucial role elite cooperation play in preventing ethnic conflicts and rather see it as secondary to class and socio-economic structures. By the virtue that human beings are rational and very calculating, the best way to avoid conflict is through dialogue and dealing with any visible forms of injustices. Elite cooperation is very essential in African setups to forestall eruption of violent confrontation, more so during charged atmospheres such as competitive politics. In Kenya for example, elite cooperation in early 2008 led to the cessation of post-election violence. In Zimbabwe too, political tension abated after Robert Mugabe agreed to incorporate Morgan

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<sup>144</sup> Le Van, C., Power Sharing and Inclusive Politics in Africa's Uncertain Democracies, *Governance: an International Journal of Policy, Administration and Institutions* Vol. 24. No.1, January 2011

<sup>145</sup> Dudkova, Eliska, 2013, *Consociational Practices as a Conflict Regulation Strategy: A Comparative Study of Ethnonationalist Movements in Northeast India*, Masarykiana University

Tsvangirai in the Government of National Unity following a disputed election in 2009. Mandera County in 2017 witnessed a peaceful election after elites from various clans in the county agreed to proportionally distribute elective seats among themselves.

Negotiated democracy has also been blamed for failing to take into account the role of external actors in disputes and similarly the trans-border nature of conflicts.<sup>146</sup> Conflicts in Africa have a multiplicity of actors, most of who may be outside the continent or a particular state. In the case of Mandera for instance, you will find the same communities inhabiting the neighbouring countries such as Somalia and Ethiopia and counties like Wajir. The Garre-Degodia conflict is partly a spill-over of the long standing hostilities between the two clans in Wajir. The Garre are a minority in Wajir while the Degodia are a minority in Mandera. Every electioneering period, the Degodia would attack the Garre to frustrate them from fielding candidates in Wajir a move that would force their kinsmen in Mandera to retaliate by attacking the Degodia. However, during the sharing of electoral seats this fact is usually ignored, a factor that makes the negotiated agreements shaky.

Among the obstacles to proper functioning of negotiated democracy is that in a normal set up the majorities would prefer a majority rule while the minorities would want protection against the majority hence preferring the negotiated form. Therefore, the majority would prefer this form in situations where they are temporarily weak after cases of a civil war or prolonged violence. This was the case for Kenya in 2007. According to a section of respondents from Mandera, the main reason the Garre Community came up with the Community Charter was to unite the community so as to defeat the Degodia in Mandera North Constituency Parliamentary seat. In fact, when the Garre felt that they were strong and united they abandoned the arrangement in 2017 a move that enabled the Degodia to recapture the seat. Luckily, in 2017 there was no electoral related violence as had been the case in 2007 and 2013 because the Garre felt that that they had lost the seat fairly after fielding more than one candidate from the community against the elders' advice. Governor Roba from the Garre also supported the Degodia candidate in his own negotiated arrangement that was seen as more accommodative to other clans.

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<sup>146</sup> Dudkova, Eliska, 2013, Consociational Practices as a Conflict Regulation Strategy: A Comparative Study of Ethnonationalist Movements in Northeast India, Masarykiana University

Second, because of usually high stakes in ethnic politics most people would prefer to stay with the status quo as in the-better-the-devil-you-know case. Indeed, this was more evident in Mandera County as voters decided to vote for Governor Roba, hence going against the negotiated arrangement that had proposed for rotational leadership among the Garre Sub-Clans. The Governor's supporters on their part believe five years were too short for him to have accomplished his election campaign promises and hence see it as an oversight on the part of the elders and drafters of the Charter. Legal scholars from the County see this as a lacuna in the Charter because it did not outrightly stipulate whether the leadership rotation was to take place after 5 or 10 years.<sup>147</sup> Similarly, modification in negotiated democracy and Consociationalism can be very difficult because in most cases they are established when the majority are momentarily weak. A number of scholars have argued that these models are usually good during transition periods to avert conflict and then shift to other forms of institutions when normalcy has returned.

The society's informal structures' incompatibility with what is stipulated on paper coupled with issues such as incomplete process of consociationalism is another challenge to sustenance of negotiated democracy arrangements.<sup>148</sup> A recent example of an incomplete process of consociationalism is the Comoros which held a referendum on 30th July, 2018 to extend presidential term limits and end a system of rotating power among the archipelago's three main islands; a move that the country's opposition termed as a power grab by President Azali Assoumani. The Secretary General of the opposition Union for the Development of the Comoros, Youssouf Boina, denounced the referendum as illegal and described it as a coup on the current constitution that requires the presidency to be rotated every five years among candidates from Comoros' three main islands. Even in Mandera, the decision by Governor Roba to breach the agreement may result to an incomplete process of consociationalism that could erode public trust in future arrangements in the event of electoral related conflicts.

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<sup>147</sup> Omar, Salim, Key Informant Interview with Luvate, Shadrack on 4<sup>th</sup> September, 2018

<sup>148</sup> Le Van, C., Power Sharing and Inclusive Politics in Africa's Uncertain Democracies, *Governance: an International Journal of Policy, Administration and Institutions* Vol. 24, No.1, January 2011

Consensus democracy has been blamed for large and expensive coalitions.<sup>149</sup> Due to their large and ambiguous nature sometimes it is difficult to pass important legislations hence slowing down development. To some extent this assumption could be true, however, oversized governments is not exclusive to consensus democracy. Majoritarian democracies in some instances depending on a country's constitution result to large governments. The Kenyan government which is purely presidential system is an example to this. President Uhuru Kenyatta in a national address in September, 2018 admitted to challenges of funding a bloated government that had affected other sectors of the economy.

Most of the drafters of these agreements have always ignored conditions in which they are supposed to operate especially for societies that have deep rooted divisions resulting to the failure of the adoption of the agreement.<sup>150</sup> For instance, in the environment of multi-party politics, you are supposed to have a compliant political party through which candidates in the negotiated arrangement may use as a vehicle to vie for the elective posts. In 2013, the Jubilee Party allowed Mandera County's candidates to vie without being subjected to party primaries which ensured full adoption of the negotiated arrangement. However, in 2017 the party refused hence frustrating efforts to sustain the arrangement. Even though the elders registered a new party, its success was not the same as 2013 casting doubts on the sustainability of negotiated democracy.

#### **4.5 Conclusion**

It is evident that electoral-related violence poses danger to the stability of most states in Africa. Following the third-wave of democratization, political parties and coalitions in Africa have increasingly taken opportunity dimensions and the tribe has always been the unifying factor instead of an ideology. Tribes come together to form a political party which in turn they use it as a vehicle to gain power. The composition of African states ethnic-wise also exacerbate the situation. Incongruence of the African culture with a number of essential dictates in the majoritarian democracy has also proved to be an impediment to the much touted African

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<sup>149</sup>Bormann, Christian, 2010, Patterns of Democracy and Its Critics, Center for International and Comparative Studies, ETH Zurich

<sup>150</sup> Horowitz, D.L., Ethnic Power Sharing and Democracy, Journal of Democracy, April 2014, Vol. 25, No. 2



democratization process. However, adoption of pre-election pacts, power sharing and inclusivity in government appear to be working in jurisdictions where they have been fully applied. Consensus democracy may therefore serve as a solution to electoral-related violence that has been an accompaniment to growing number of elections in Africa. Even though consensus democracy may address African specific challenges, it has some pitfalls and weakness that could undermine realization of the intended objectives.

## CHAPTER FIVE

### SUMMARY OF FINDINGS AND CONCLUSIONS

#### **5.0 Introduction**

This study set out to assess whether or not negotiated democracy can offer solutions to the problem of electoral-related conflicts in Africa using the case of Mandera County in Kenya (2013 to 2017). First it examined the nature and dynamics of electoral democracy in Africa and the challenges that have attended to it. Secondly, the study assessed the nature of negotiated democracy in Kenya's Mandera County. Finally, the study provided a critical analysis of ways in which negotiated democracy can serve as a conflict prevention mechanism in Africa.

#### **5.1 Summary of Key Debates/Findings**

Following the reintroduction of multi-party politics in Africa, cases of electoral-related violence have been on the increase. These instances of violence in some cases have been so bad to the extent of driving the concerned countries to the verge of collapse. Examples of such violence abound starting with the most recent in Cameroon where there was widespread violence in its Anglophone region whose leaders have been accusing President Paul Biya's regime of economic marginalization. Zimbabwe too in its 2018 general elections also experienced bouts of electoral violence punctuated with the opposition candidate declaring himself as the winner.

Political competition which is a hallmark of multi-party politics coupled with the winner-takes-all kind of politics have magnified the conflicts and cleavages that have always been present among African ethnic groups and clans. Similarly, elites and political entrepreneurs have taken advantage of the economic hardship and mistrust among communities in the continent to capture power and political office. Incongruence between some aspects of the African Culture and the majoritarian democracy have made adoption of democracy to be slow and where they have tried it has always been ending up in electoral-related violence. The current state of affairs appear to be fertile ground for the resumption of authoritarian regimes partly assisted by the current International System where authoritarian regimes such as Russia and China are on the rise and spreading their influence across the world.

Lack of efficient and transparent electoral management system in an environment marked by high ethnic tensions has neither helped the dire situation. Ruling parties in Africa have been accused of using state resources to gain an undue advantage over the opposition. The opposition on their part refuse to use legal channels to register their grievances, a move that has also contributed to violence during instances of disputed elections. However, those states that have encouraged pre-electoral pacts ahead of the electioneering process have witnessed a marked reduction in violence and disputes that follow elections. Disputed elections result to major human and financial costs due to the attendant violence and destruction. Negotiated democracy therefore has inherent mechanisms that help bring diverse ethnic groups together and limit the risk of ethnic violence in the event of a contentious election.

This research sought to assess whether or not negotiated democracy can offer solutions to the problem of election related conflicts in Africa by using the case of Mandera County in Kenya between 2013 and 2017. In seeking to accomplish this, the study focused on three objectives; first to examine the nature and dynamics of electoral democracy in Africa and the challenges that have attended to it and second to assess the nature of negotiated democracy in Kenya's Mandera County. The third objective was to critically analyze ways in which negotiated democracy can serve as an electoral-related conflict prevention mechanism in Africa.

With respect to the first objective, the study established that there is a correlation between the return of multi-party politics in Africa and the rise of election-related violence. These cycles of election-related violence which have been a common feature of multi-party politics in Africa not only threaten peace and stability of young and new democracies, but also erode the gains made so far in the democratization process.<sup>151</sup> These conflicts usually manifest themselves in form of harassment of voters and candidates, low intensity violence at the beginning, unlawful incarceration, political assassinations and widespread violence.<sup>152</sup> Electoral violence can also be classified into two broad categories; either relating to structural factors inherent in young and new democracies or based on factors specific to the electoral process.

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<sup>151</sup> Cheeseman, Nic, 2015, *Democracy in Africa: Successes, Failures and the Struggles for Political reforms*, Cambridge University Press

<sup>152</sup> Burchard, S. M., 2015, *Electoral Violence in Sub-Saharan Africa: Causes and Consequences*, Lynne Rienner Publishers, P.12

The research also found out that the prolonged history of conflicts not only limited to elections periods have made it easy for any slight misunderstanding or suspicion especially around elections in Africa to degenerate into violent conflicts. In fact, electoral-related violence has been the main trigger of protracted political conflicts on the continent.<sup>153</sup> For example, Ivory Coast experienced a political dispute that span over five months following a contentious 2010 presidential election, a standoff that led to the death of over 5,000 people. Angola's 1992 multiparty elections descended into a civil war that lasted for almost a decade.

But why do elections in most African countries always end up in violence? The study found out that the politics of ethnicity in an environment deficient of strong political ideologies is part of the reason political competition has always ended up in violence. Political parties in Africa are formed on the basis of ethnicity and revolve around personalities. Additionally, in most African states, vast powers are vested in the presidency and the executive at the expense of other arms of government. This concentration of power in one institution sets ground for high stakes contests increasing the possibility of violence. Other factors identified include weak electoral institutions and laws, history of political interference in the electoral process that has made voters to lose faith in institutions managing the electoral process as well as external influence with the ongoing case against the executives of Cambridge Analytica serving as a good example.

Perceptions of economic and political exclusion are also responsible for electoral-related violence. Major events around the globe have also had great impact on the domestic front. The ongoing war on terrorism and major conflicts such as the Arab Spring have made it difficult for struggling democracies in the Sahel region to hold credible elections because of violence. The African culture to a large extent promotes values such as sharing which at times conflicts with the tenets of multi-party politics like first past the goal post takes it all. Most religious teachings also promote consensus building as opposed to unhealthy competition that is a hallmark of majoritarian democracy.

The study also found out that consensus is still lacking among scholars on whether the consensus model of democracy is the best model for divided societies in Africa. However, what many

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<sup>153</sup> Koter, D., 2016, *Beyond Ethnic Politics in Africa*, Cambridge University Press

scholars agree is that democracy at inception is usually flawed and therefore the question should always be how can we grow this flawed system to survive, move forward and become stronger.<sup>154</sup> Most of the arguments among the scholars still revolve around the classification of democracies with most agreeing that it can be divided into majoritarian and consensus democracies. Also much of the academic discourse is much centered on which is the superior form of democracy in terms of economic development and independence of economic institutions such as the Central Bank.<sup>155</sup>

As far as the second research objective is concerned, it can be concluded that the negotiated democracy model that was introduced in Mandera County during the 2013 elections has been successful in preventing electoral-related inter-clan violence, a phenomenon that had been synonymous with previous elections. Negotiated democracy in Mandera County operates within the traditional governance institutions where elders drawn from various sub-clans making up the Garre Community negotiate for elective posts. After settling on the elective positions to be shared among the sub-clans, the elders then ask the various sub-clans to forward names of qualified members for interviews. Each sub-clan is required to submit three names of candidates for the political position it has been allocated. The elders then vet the candidates who have been forwarded by their respective clans picking those who are successful to vie for the elective positions. Even though the system has been credited for the relative peace that was experienced post 2013 and 2017 elections, critics have argued that it is discriminatory against women as no clan would want a woman to represent it.

What also came out during the study is that ethnic and religious homogeneity in Africa are not sufficient enough to stop an election from experiencing electoral-related violence. The case of Mandera County where all the major clans belong to the larger Somali ethnic group and profess the Muslim faith, is clear testimony that not only Africans but humankind in general will always find differences that make sense to them.<sup>156</sup> Given that clan differences and rivalries run deep within the Somali ethnic group, any slight suspicion as a result of political competition has

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<sup>154</sup>Rice, Condoleeza, 2018, *Democracy: Stories from the Long Road to Freedom*, Grand Central Publishing

<sup>155</sup>Armingeon, Klaus, 2002, The effects of negotiation democracy: A comparative analysis, *European Journal of Political Research* 41: 81-105

<sup>156</sup>Elmi, Afyare Abdi, 2010, *Understanding the Somalia Conflagration: Identity, Political Islam and Peacebuilding*, Pluto Press, London

always degenerated to bloody conflicts that in some instances led to expulsion of a clan from areas not perceived to be their ancestral home.

It is also evident that devolution, a product of the Constitution of Kenya 2010 amplified competition among clans in Mandera County for various elective posts. This is a clear indication that clans in Mandera and Africans in general believe that for one's community to benefit from government resources, a clan member or a person from the ethnic background must be in a leadership position. It is this notion that has made elections in Africa to be a do or die situation as ethnic communities try to outdo each other during elections.

Last, in regard to the third research objective, this study sought to highlight ways in which negotiated democracy can serve as an electoral-related conflict prevention mechanism in Africa. To begin with, negotiated democracy allows for the direct participation of the citizenry in determining who will be their leaders hence promoting believability and acceptability of an electoral outcome. By also encouraging elite cooperation it reduces chances of sabotage in an electoral process. In essence the study found out that negotiated democracy puts a lot of emphasis on the positive elements present in African culture such as popular participation in decision making processes, demanding accountability from the leadership as well as consensus building. This ensures proper blending between this form of governance and the main components of the social structure of most African communities.

The study also identified a number of pitfalls and challenges that may undermine the proper adoption and functioning of negotiated democracy. To begin with, such arrangements can be a threat to political competition and accountability that are hallmarks of democracy. An incomplete consociational process may also turn out to be a threat to peace and stability in jurisdictions observing this form of governance. Negotiated democracy has also been blamed for freezing conflicts and cleavages thereby preventing the society from undergoing genuine and proper integration in all aspects of life.

## 5.2 Conclusion

Out of this research, two conclusions really stand out. The first is that politics of ethnicity that have been practiced over time since the return of multi-party politics are increasingly the reason behind violent conflicts especially around the electioneering period in most African states. Multiparty politics therefore is directly viewed as ethnic competition. In situations where there is presence of a homogeneous community, the competition shifts to constitutive clans and the results can be even worse if compared to tribal differences. The case of Mandera County and even the situation in the larger Somalia is clear evidence. So the majoritarian democracy which gained momentum in Africa during the third wave of multiparty democracy appears to be deepening the ethnic, linguistic, clan and religious cleavages among diverse communities in the continent leading to election-related conflicts.

However, those jurisdictions that have employed the negotiated form of democracy in one way or another have been witnessing smooth transitions. This is because negotiated democracy takes care of ethnic diversities and their interests hence preventing electoral-related conflicts. As we have seen, it achieves this by promoting elite cooperation hence introducing a sense of accommodation among the various ethnic communities in Africa. By ensuring proportional power sharing, it also accords the minorities an assurance that their interests will be taken care of while at the same time guaranteeing the majority that they will not be short changed. The rotational aspect with regard to what is applied in Mandera County seems to be a solution to electoral-related conflicts and representation facing countries such as Kenya. An assurance that leadership will be rotational among all the tribes can easily end the negative politics that have been blamed for fanning electoral-related violence in Kenya and other African states.

In theory, negotiated democracy draws most of its tenets from the Participatory Democratic Theory which lays more emphasis on maximizing the contributions of citizens in decisions that have impact on their lives.<sup>157</sup> In negotiated democracy, traditional institutions such as the council of elders, kings and chiefs among others ensure that citizens' involvement in governance not only stops during elections but is continuous.

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<sup>157</sup>Pateman C., 1970, Participation and Democratic Theory, Cambridge University Press

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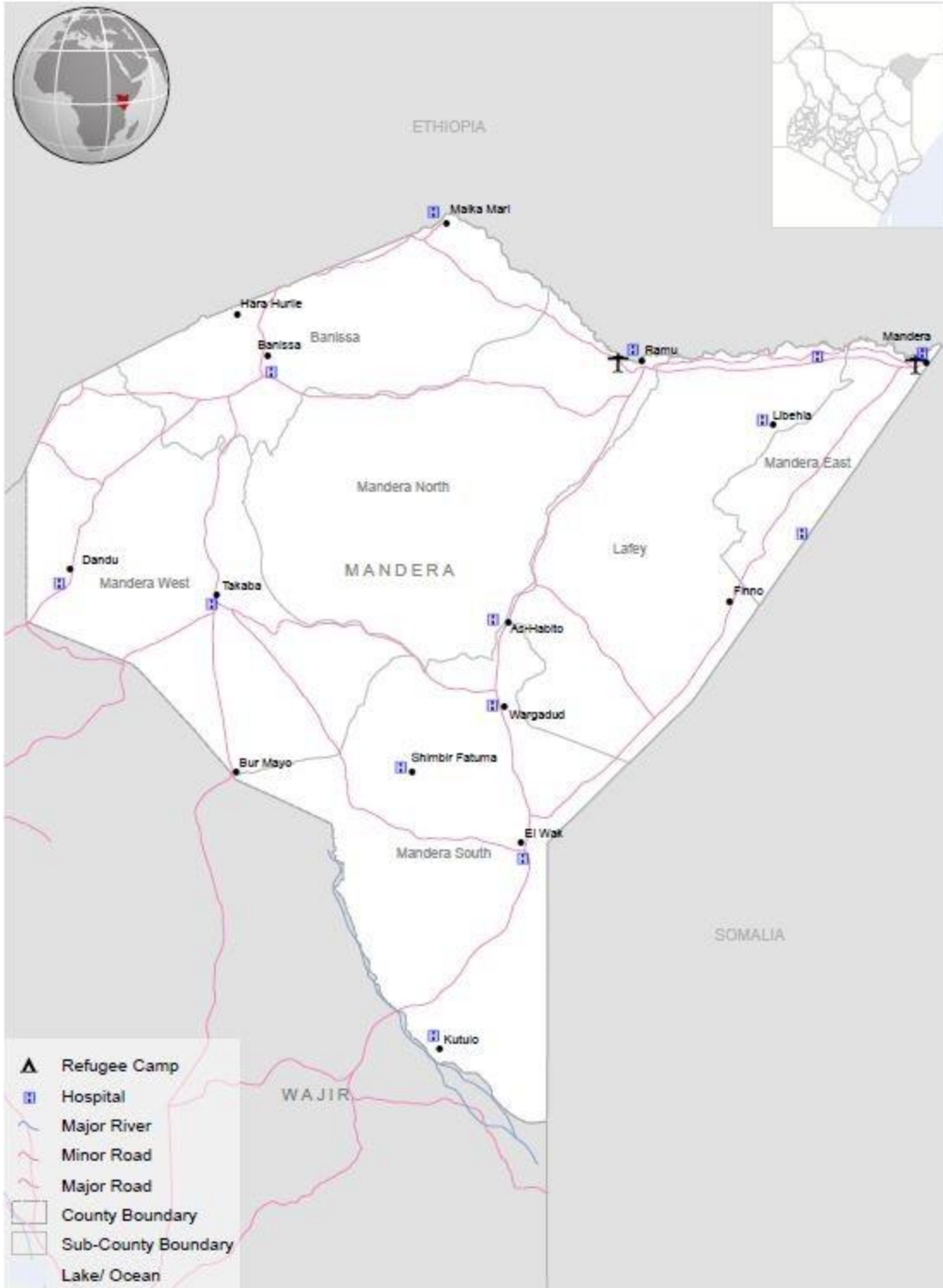
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Appendix A: MANDERA COUNTY MAP, Courtesy World Bank 2012

Kenya: Mandera County Reference Map



## Appendix B: Interview Guide

NAME \_\_\_\_\_ AGE \_\_\_\_\_ CONSTITUENCY \_\_\_\_\_  
RESIDENCE \_\_\_\_\_ DATE \_\_\_\_\_  
SEX \_\_\_\_\_ DATE OF INTERVIEW \_\_\_\_\_

**The main objective of the study is to assess whether or not negotiated democracy can offer solutions to the problem of election related conflicts in Africa using the Mandera County of Kenya case (2013 to 2017)**

1. List some of the clans/communities that live in Mandera
2. Which among the listed clans/communities experience electoral-related conflicts?
3. What was the extent of the above conflict?
4. What are your views on the Garre Community Charter of 2010? And
5. In your opinion did the negotiated agreement spearheaded by elders in Mandera County on how to share elective positions in 2013 succeed or fail in preventing electoral-related conflicts?
6. What can you say contributed to the success or failure of the negotiated agreement?
7. What role do elders in the Somali community play when it comes to governance?