

**UNIVERSITY OF NAIROBBI**

**//THE ROLE OF 'PARLIAMENTARY DIPLOMACY' IN MAINTAINING  
POLITICAL STABILITY: A CASE OF KENYA 2000-2014 //**

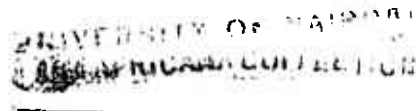
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**REG NO: R50 /68944/ 2013**

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**RESEARCH PROJECT SUBMITTED IN PARTIAL FULFILLMENT OF DEGREE  
OF MASTERS ON ARTS IN DIPLOMACY, INSTITUTE OF DIPLOMACY AND  
INTERNATIONAL STUDIES, UNIVERSITY OF NAIROBI.**

**SEPTEMBER, 2015**



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**DECLARATION**

I hereby declare that this is my original work and has never been presented in any other institution, the sources have been well acknowledged.

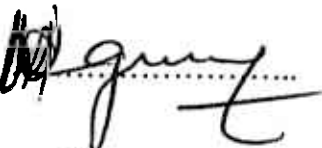
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## **DEDICATION**

**This project is dedicated to my parents Mr. Barnabas Kavoo Munyao and Hon. Rose Museo Munyao for their endless love support and encouragement.**

## **ACKNOWLEDGEMENT**

An exercise of this nature cannot be the work of an individual, I am therefore indebted to everyone who has in one way or the other contributed to the realization of this study. I am grateful to the Lord for the gift of life and health to the very end of the study, thank you my God for the blessings and guidance. To Martin Nguru my Supervisor, your constant intellectual guidance, inspiration and support were invaluable. You rekindled my dreams and provided me with fresh impetus to read on. The lecturers and staffs of the Institute of Diplomacy and International studies, May God reward you for the support you provided. To Hon Katoo Metito my Boss, I express my heartfelt gratefulness for your support and understanding. I also thank my classmates for the wonderful moments we shared, you made my world. Special appreciation goes to those who contributed to the production of this work. To my Family I dedicate all the good things that may accrue from this study, to my parent's Mr. and Mrs Kavoo from whom the river of life originated, am forever grateful to you for making me who I am. In acknowledging the many that contributed to this study, I in no way intend to make them accountable for any shortcoming herein. This remains my sole responsibility, for which I accept the blame. This Study is only a beginning of my journey.

**God bless you all.**

## **ABSTRACT**

The European Union (EU) identifies five principles at the core of good governance. These are legitimacy and voice, direction, performance, accountability and fairness. But according to the United Nations Development Programme (UNDP), good governance includes the following principles: participation, rule of law, transparency, responsiveness, consensus building, equity, effectiveness and efficiency, decentralization, accountability, and strategic vision. Political stability, therefore, involves the creation of effective partnership to ensure that political, social and economic priorities rest on broad consensus in society and ensures that the voices of the poor and most vulnerable are heard in the decision-making process. The main aim of the study was to examine the role of parliamentary diplomacy in maintaining political stability in Kenya. It was guided by the following objectives: To determine the extent to which parliament legislative roles affect political stability, to evaluate the extent to which plenary sessions dealing with foreign policy ensure political stability, and to evaluate the extent to which Kenyan Parliament control of election monitoring process ensure political stability. Research Hypothesis included: Parliament legislative roles have no significant effect to political stability; plenary sessions dealing with foreign policy have no significant to political stability and Kenyan Parliament control of election monitoring process have no significant political stability. This study was underpinned by the theory of institutional. The study relied on the following methods: an interview guide and document analysis of books, newspapers, journals, historical documents and speeches. This study was based in Nairobi. The study concluded that today's Parliament legislative roles have no significant effect to political stability, Plenary sessions dealing with foreign policy have no significant to political stability and Kenyan Parliament control of election monitoring process have no significant political stability. The study recommended that The government should enhance the capacity of the law enforcement agencies in terms of regular training and equipping them with the latest technology in order for the law enforcers to effectively handle political instability.

## **LIST OF ABBREVIATIONS**

**IMF:** International Monetary Fund

**MDGs:** Millennium Development Goals

**EU:** European Union

**UNDP:** United Nations Development Programme

**IFIs:** International financial institutions

**MPs:** Members of parliament

**AUC:** African Union Commission

**AU:** African Union

**EP:** European Parliament

**IEBC:** Independent Electoral and Boundaries Commission

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## CHAPTER ONE: INTRODUCTION TO THE STUDY

### 1.1 Background to the Study

The concept of political stability is used to illustrate how public institutions effectively and efficiently manage public affairs and resources and ensure that human rights of citizens within a state are protected and respected.<sup>1</sup> The idea of political stability became imperative for structural market and economic reform in Africa since the late 1980s and the early 1990s. Thus, at the end of the Cold War, the demise of the Soviet Union left its member countries with very serious financial crises. The erstwhile Soviet Union, therefore, could no longer support the African countries that were, hitherto, dependent on it for financial and technical support. As a result, most Third World countries had to turn to the West and its institutions such as the World Bank and the International Monetary Fund (IMF) for assistance or support. In order for these developing countries to access financial assistance from the Breton Woods institutions, they were to fulfil certain conditionality, namely; to adapt to good governance as well as political stability practices.<sup>2</sup>

Today, political stability has become a major determinant towards the achievement of sustainable human development. It is an all-inclusive package which comes with fundamental ingredients without which it will be difficult, if not impossible, to attain the Millennium Development Goals (MDGs).<sup>3</sup> The major ingredients of political stability may include the adherence to rule of law, accountability, probity,

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<sup>1</sup> Bache, I. (2006). *Politics in the European Union*, 2nd edition (USA: Oxford University Press (p. 185-222)

<sup>2</sup> Mitrany, D. (2006). *A Working Peace System*. Chicago: Quadrangle Books. (Vol. 2. p. 12)

<sup>3</sup> Robertson, A. (2009). *European Institutions: Co-operation: Diplomacy: Unification*, New York: Frederick A Praeger (Vol. 4, p. 100)

transparency, popular participation and other democratic values. To ensure that states adhere to these democratic values, certain state institutions have been established. One of such powerful state institutions for this purpose is the parliament whose basic roles are enacting laws, representation and checking the executive arm of government.<sup>4</sup>

The Kenyan parliament plays a legislative role in accordance with Article 94 (1) of the Constitution of Kenya, 2010 which provides that the legislative authority of the Republic of Kenya is vested in and exercised by Parliament.<sup>5</sup> Article 94 (5) further provides that, no person or body, other than parliament, has power to make provision having the force of law in Kenya except under authority conferred by the constitution or legislation that provides political stability. This implies that it is only Parliament with the statutory mandate of not only making laws but also of domesticating international agreements. Legislations originate from Bills introduced by the Government, committees of parliament or individual legislators through private members' bills.<sup>6</sup>

The Kenyan Parliament considers four types of legislation that maintains political stability: Government Bills, Private Members' Bills (Public Bills) and Subsidiary Legislation or Regulations (commonly known in the UK as Statutory Instruments) through the Committee on Delegated Legislation (See Standing Order 197).<sup>7</sup> The

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<sup>4</sup> Wako, A. (2004). Report of the Committee on Fast Tracking East African Federation: Arusha: East African Community. p.16

<sup>5</sup> Semboja, H. J. (2012). East African Economic Diplomacy Base Case Economic Analysis: *African Diplomacy Review*, (Vol. 3. No. 2, p. 185-222)

<sup>6</sup> Rothchild, D. (2011). *Politics of Diplomacy: An East African Documentary*. Nairobi: EAPH. (Vol. 3. p. 100-110)

<sup>7</sup> Porter, R. (2011). Kenya's Future as an Exporter of Manufactures: *East African Economic Review*, (June 2011).P.22

Committee ensures that statutory instruments are laid before the House. It also scrutinizes such instruments to ensure that they are consistent with respective parent statutes. Unless otherwise provided for, either expressly or by necessary implication under any written law, all subsidiary legislation are ordinarily supposed to be tabled before the House upon publication in the Kenya Gazette. Most of the bills with a bearing on East African integration or any other international agreement are generally expected to be tabled by the member of the Executive.<sup>8</sup>

## 1.2 Problem Statement

The European Union (EU) identifies five principles at the core of good governance. These are legitimacy and voice, direction, performance, accountability and fairness.<sup>9</sup> But according to the United Nations Development Programme (UNDP), good governance includes the following principles: participation, rule of law, transparency, responsiveness, consensus building, equity, effectiveness and efficiency, decentralization, accountability, and strategic vision. Political stability, therefore, involves the creation of effective partnership to ensure that political, social and economic priorities rest on broad consensus in society and ensures that the voices of the poor and most vulnerable are heard in the decision-making process.<sup>10</sup>

Despite the varied debates and arguments, one thing that cuts across and is agreed upon by many is the enormity of this task. All articles ever written on the

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<sup>8</sup> Burke, F. G. 'Unity and Diversity in East Africa- Synthesis Dialectic' a paper prepared for and delivered at Duke University's commonwealth studies centre, February 15, 2014, p. 25  
Constitution of Kenya (2010)

<sup>9</sup> Ghai Y. P. (2008). *Territorial Distribution of Benefits and Cost of the East Africa Common Market: East Africa Economic Review*, (p.91).

<sup>10</sup> Hughes, A. (2013). *East Africa. The search for unity: Kenya Tanganyika, Uganda and Zanzibar* Middlesex: Hasmondsworth (Vol. 3, p. 19)

parliamentary diplomacy do not fail to mention the enormous challenges that face maintaining political stability in the road to the realization of the parliamentary diplomacy.<sup>11</sup> Political stability is an intergovernmental process that requires the inclusion of the main governmental decision-making institutions. Parliament is one such institution that plays an important role in each sovereign state as a law-making body. In addition, it plays other roles such as oversight and representation.

Various constitutional amendments have been passed with the unfortunate effect being a weakened Parliament and a dominant Executive.<sup>12</sup> A weak Parliament would mean less oversight. There were about ten constitutional amendments that strengthened the Executive. Power was transferred from Parliament and concentrated in the Presidency.<sup>13</sup> In light of these changes, the role of the Kenyan Parliament to midwife the process of parliamentary diplomacy in maintaining political stability appeared to have been compromised.

One of the reasons was the reduced participation of other institutions (like Parliament) in the decision-making process as explained by the Wako Report, 2004.<sup>14</sup> But even with this realization, executive dominance (the Summit) continued to side-line other important actors. In the face of a dominant executive and the weak position that the Kenyan Parliament found itself in due to the said constitutional amendments, the

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<sup>11</sup> Kiapi, A. (2011). 'Legal Accommodation of National Interests in Regional Economic Diplomacy: Some observations on the EAC', *Universities Social Sciences Council Conference, Makerere* (p. 105-111)

<sup>12</sup> Lynden J. (2012). *Policies, Decisions and Organisations*. New York: Meredith Corporation. (P. 12)

<sup>13</sup> Gichohi, P. & Matiang'i, A. (2014). Conference Paper on "*Modalities for the Establishment of the East African Parliament Institute (EAPI)*". Nairobi: Parliament Press (p. 185-192)

<sup>14</sup> Mugasha, F. (2007). *General Commonwealth Parliamentarians Association Journal*. (May 9, 2007. p. 19)



study sought to answer the question what role had the Kenyan Parliament played in promoting political stability process since 2000- 2014?

Features of bad governance in the areas of conflicts, political instability, corruption, poverty, mismanagement and the likes seem to be increasing by the day. The quest for political stability under the watchful eyes of the Kenyan Parliament, however, seems to be lacking due to many factors. First, the very fact that the parliament lacks legislative powers to enact binding laws cripples the authority of the sub-regional parliament. Second, the parliament's inability to employ a forceful supra-national authority leaves the parliament powerless and impotent. Again, resources available and the capabilities of the parliament to carry out its numerous functions appear to be insufficient for dealing with the myriad of challenges bedeviling the country. Is the case of the Kenyan Parliament therefore a case of being a white elephant or it is simply a rubber stamp? This study, therefore, critically looks at the role of parliamentary diplomacy in maintaining political stability.

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

#### **1.3.1 Main Objective**

The main objective of the study is to examine the role of parliamentary diplomacy in maintaining political stability in Kenya.

#### **1.3.2 Specific Objectives**

- i. To determine the extent to which parliament legislative roles affect political stability
- ii. To evaluate the extent to which plenary sessions dealing with foreign policy ensure political stability

- iii. To evaluate the extent to which Kenyan Parliament control of election monitory process ensure political stability

#### 1.4 Literature Review

According to Ndegwa<sup>15</sup> the Parliament as one of the institutions that is a forum for dialogue, consultation and consensus for the representatives of the people with the view of promoting integration in the region. Hoffmann, pointed out that the end of the Cold War brought about the emergence of civil liberties and rule of law globally.<sup>16</sup> Africa as a region, have benefitted from this democratic wave with the emergence of democratic institutions and representative government across the whole of the region.

Noto<sup>17</sup> asserts that though the end of the Cold War ushered in the development of democratic institutions, it unintentionally engendered ethnic, religious and nationalist tensions and disturbances in some countries. The result was the formation of opposition forces around the very vocal but popular political elites who rally the support of disgruntled youth who are willing to channel their productive energies on very destructive wars and conflicts. Teodo opines that the end of the Cold War elevated the banner of insecurity in the region and brought into focus the need to further develop and strengthen the culture of constitutional rule, democratic control of

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<sup>15</sup> Ndegwa, P. (2008). *The Common Market and Development in East Africa*. Nairobi: East African Publishing House (P.34)

<sup>16</sup> Hoffmann S. (2006). Obstinate or Obsolete? The Fate of the Nation State and the Case of Western Europe: *Daedalus*, (Vol. 95, p. 862-915)

<sup>17</sup> Neto, P. G. (2007). *Mersocur: Fostering Regional Economic Diplomacy*. *Thunderbird International Business Review*. Online Publication (Vol. 40. No. 6, pp. 585-604)

the security sector as well as harmonious civil- military relations.<sup>18</sup> Put differently, good governance and democracy must prevail.

Parliament is an institution as well as an arena of government that has the capacity to enter into agreements of international obligations. Ssempembwa argues that such international obligations tend to be delicate and usually outside the purview of Parliament.<sup>19</sup> In essence, Parliament may not be a critical player in matters outside the national boundary. Nye<sup>20</sup> argues that, international agreements have been seen as natural ventures between governments directed by the administration of the day. There is little room for Parliament to manoeuvre. Integration is equally a policy and a political issue.<sup>21</sup>

According to Bache the higher level of transparency and accountability of majoritarian democracies also weighs in their favour.<sup>22</sup> Political leaders in a majoritarian democracy are more exposed and accountable to the general public, while responsibility and accountability in non-majoritarian systems often tends to evaporate in the countless networks typical of a negotiation democracy. Furthermore, majoritarian democracies (just as presidential systems) tend to be better placed to present politics and policy in the mass media. In contrast to this, policy deliberation in

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<sup>18</sup> Teodo L. (2009). *The Contribution of the Neo-functionalism and Intergovernmentalism Theories to the Evolution of the European Diplomacy Process: Journal of Alternative Perspectives in the Social Sciences*, (P.32).

<sup>19</sup> Ssempembwa, F. E. (2005). *The Role of Regional Parliaments: Workshop on the Role of Regional Parliament (ECOWAS, EALA, SADC-PF) in Regional Diplomacy Efforts in Africa*, Nairobi: Fredrick Ebert Foundation (Vol. 2, p. 121-122)

<sup>20</sup> Nye, J. (2011). *Peace in Parts: Diplomacy and Conflict in Regional Organization*. Boston: Little, Brown and Company.P.27

<sup>21</sup> Teodo L. (2009). *The Contribution of the Neo-functionalism and Intergovernmentalism Theories to the Evolution of the European Diplomacy Process: Journal of Alternative Perspectives in the Social Sciences*, (P.23).

<sup>22</sup> Bache, I. (2006). *Politics in the European Union*, 2nd edition (USA: Oxford University Press( p. 180-200)

a non-majoritarian democracy is frequently characterized by extended bargaining, time-consuming searches for compromises and circuitous attempts to develop a political consensus such features are not at all suitable to politics as a spectacle.<sup>23</sup>

Neto assets that media friendliness runs the risk of reducing politics and policy to a spectacle in which only instant consumption counts. This breeds the danger of politics without policy, or politics without leadership.<sup>24</sup> This is not the only intrinsic weakness of a majoritarian democracy. In many respects the strengths of majoritarian democracies turn out to cut both ways. Frequent changes in the partisan complexion of government, for example, can foster innovation but may also generate increasing uncertainty, such as with repeated stop-go policies or policy changes which take the form of two steps forward and two steps back. In the worst case, frequent major changes in power generate shock-like disturbances in the polity.<sup>25</sup>

A further weakness of majoritarian democracy as shown by Nye lies in its disregard of minorities and the absence of a mechanism to integrate reliably those who lose out from a vote or a decision apart from the possibility that the loser can in principle win the next time round.<sup>26</sup> Thus, majoritarian democracies suffer not only from their inbuilt tendency towards a tyranny of the majority, but also from a tendency to produce conflict resolutions of the zero-sum type, such as in a winner-takes-all game. It is largely for these reasons that majoritarian democracies are hardly suitable for

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<sup>23</sup> Hoffmann S. (2006). *Obstinate or Obsolete? The Fate of the Nation State and the Case of Western Europe: Daedalus*, (Vol. 95, p. 862-915)

<sup>24</sup> Neto, P. G. (2007). *Mersocur: Fostering Regional Economic Diplomacy. Thunderbird International Business Review. Online Publication* (Vol. 40. No. 6, pp. 585-604)

<sup>25</sup> Ssempembwa, F. E. (2005). *The Role of Regional Parliaments: Workshop on the Role of Regional Parliament (ECOWAS, EALA, SADC-PF) in Regional Diplomacy Efforts in Africa*, Nairobi: Fredrick Ebert Foundation(p. 122)

<sup>26</sup> Nye, J. (2011). *Peace in Parts: Diplomacy and Conflict in Regional Organization*. Boston: Little, Brown and Company. (P.21)

integrating opposition parties, nor are they particularly well equipped to be able to integrate adversarial minorities. Moreover, the job of keeping together a society deeply divided into segments overburdens a majoritarian democracy.<sup>27</sup>

According to Lays and Robson the implementation costs of majoritarian democracies often exceed those of negotiation democracies.<sup>28</sup> This is largely because of the costs involved in excluding minority interests from the process of policy deliberation and decision making. Just as the earlier modernization theory had a marked influence on the development of legal reform programs two decades ago, so the growing influence of theories of rational choice institutionalism is readily evident in a range of international financial institutions (IFIs) programs on legal reform. The result has been a proliferation of law reform projects and programs supported by development assistance institutions. Enthusiasm for law reform as a development strategy boomed during the 1990s and resources for reforming legal systems soared everywhere.<sup>29</sup> Developed countries and international organizations, which once focused primarily on building roads and dams and getting macroeconomic variables right, now proclaim the importance of the “rule of law” and spend billions over the last twenty years trying to build the rule of law in countries transitioning to democracy or attempting to escape underdevelopment.

It is apparent that a key objective of these programs is to develop a legal environment characterized by respect for property rights, by a law-making process capable of

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<sup>27</sup> Kipkemoi, K. (2003). *Working Structures of Parliaments in East Africa*. Friedrich Ebert Foundation, Nairobi: Legis Consult (Vol. 2. No. 5, p. 18-22)

<sup>28</sup> Lays, C., & Robson, P. (2005). *Federation in East Africa Opportunities and Problems*. Nairobi: Oxford University Press ( p. 9-12)

<sup>29</sup> Sesay, A. (2007), *The Future of Regionalism in Africa* by (London: Macmillan) (Vol. 2, p. 14)

integrating business oriented laws within the prevailing legal system and minimizing regulatory intervention, and by legal institutions capable of implementing those laws in an efficient and transparent manner.<sup>30</sup> Like telecommunications and roads, multilateral and most Western bilateral aid providers assume that rights-based, normative legal systems are a prerequisite of efficient industrial economics.

According to Mitrany globalisation or internationalisation of law in developing countries means, predominantly, the transplanting of Western laws.<sup>31</sup> For these countries, law is to be used as an instrument for social engineering, and, by transplanting Western laws, to radically alter their economies. There is nothing wrong with global borrowing in developing a legal system. Indeed, as Watson has concluded in his seminal work, *Legal Transplants*, major legal developments in the modern world are the results of borrowing.<sup>32</sup> Obviously, such a reception of foreign legal institutions depends on the 'usefulness in and need' of the recipient country. In other words, law as an instrument for social engineering may be transplanted from one system to another.

According to Robertson the reasons for the introduction of these legal transplants differ from country to country and for different areas of the law.<sup>33</sup> In some cases, legal transfers are imported as part of technical assistance programs. In others, law reforms are initiated after crisis situations. While the reasons for the legal transplants

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<sup>30</sup> Vivien, F. (2010). *Africa's Infrastructure: A Time for Transformation: Meeting the Challenges of Regional diplomacy, Intra-African Trade and Economic Growth in Africa*. Nairobi: World Bank (Vol. 3. p. 17)

<sup>31</sup> Mitrany, D. (2006). *A Working Peace System*. Chicago: Quadrangle Books ( p. 15-22)

<sup>32</sup> Teodo L. (2009). *The Contribution of the Neo-functionalism and Intergovernmentalism Theories to the Evolution of the European Diplomacy Process: Journal of Alternative Perspectives in the Social Sciences*, (May, 2009).

<sup>33</sup> Robertson, A. (2009). *European Institutions: Co-operation: Diplomacy: Unification*, New York: Frederick A Praeger (P.20)

are more evident, their effects and impacts seem more illusory as demonstrated by the various problems of transplantation belatedly recognized decades ago.

According to Kipkemoi, the parliament ideal lacks legitimacy within the context of the national units.<sup>34</sup> A Parliament therefore will back the idea with the needed legitimacy. He argues that generally regional parliaments and other parliamentary groups in Africa are aimed at playing legislative and democratic oversight functions of integration, yet they are still at a teething stage of organizational development. These parliaments are therefore short of playing the roles that mature parliaments play in democratic set up. He attributes this to two main reasons. According to Lays and Robson, the first reason is that parliament's role is undermined by the constitutional and legislative framework which gives pre-eminence to the Executive.<sup>35</sup> They assert that in many countries, the executive wields enormous powers and renders parliament subservient. His second argument is that parliament is often ignored in the policy process and is only reduced to a rubber stamping body. In exceptional cases only a select committee or a few members are consulted. He observes that for the past four decades of Africa's Independence, parliament has been side-lined in regional integration. He pointed out that issues of development and regional integration was exclusively limited to the executive while parliament concentrated on domestic legislative issues.

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<sup>34</sup> Kipkemoi, K. (2003). *Working Structures of Parliaments in East Africa*. Friedrich Ebert Foundation, Nairobi: Legis Consult (Vol. 2. No. 21, p. 15-21)

<sup>35</sup> Lays, C., & Robson, P. (2005). *Federation in East Africa Opportunities and Problems*. Nairobi: Oxford University Press (P.45)

The marginalization of the legislature, according to Oyugi, accounts for the slow integration process.<sup>36</sup> He added that the call for the establishment of parliament as significant actors is partly due to the internal and external development partners who have been calling for good governance, accountability and transparency. Even though Sessay makes cogent analysis of the role of parliament in regional integration, his focus was more on the weaknesses of national parliament in general.<sup>37</sup> Again, it could be seen that only a very little discussion was made on the Kenyan Parliament and its role in promoting political stability.

Collier noted that the beauty of democracy is predicated on the independence of the Executive, the legislature and the judiciary.<sup>38</sup> In most cases, parliaments at the federal and national levels in functional democracies are endowed with the constitutionally guaranteed powers to make laws for the good governance of their people. The three principal functions of any national parliament include law-making, oversight and representation. The authors were of the view that dynamics of modern democracy have extended the scope and functions of parliaments to regional bodies seeking to improve inter and intra-border trade among member states. Commenting on the nature and the works of the Parliament, Vivien indicated that initially, the Parliament was mandated to serve only as a consultative and advisory body with additional powers to be granted later.<sup>39</sup>

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<sup>36</sup> Oyugi, W. (1994). *Politics and Administration in East Africa*. Nairobi: East African Educational Publishers.P.28

<sup>37</sup> Sessay, A. (2007), *The Future of Regionalism in Africa* by (London: Macmillan)

<sup>38</sup> Collier, P. (2011). *Regional Diplomacy in sub-Saharan Africa*. London: Macmillan, (Vol. I, P.56)

<sup>39</sup> Vivien, F. (2010). *Africa's Infrastructure: A Time for Transformation: Meeting the Challenges of Regional diplomacy, Intra-African Trade and Economic Growth in Africa*. Nairobi: World Bank



Ellen argument is that accountability allows for the punishment of politicians that adopt bad policies, thus aligning politicians' preferences with those of the electorate.<sup>40</sup>

The degree of accountability in the system is determined, in turn, by the specific features of the political system. Three main features can be identified in this respect: the degree of competition in the political system, the existence of checks and balances mechanisms across different branches of government, and the transparency of the system. Political competition has long been recognized as an important factor determining the efficiency of political outcomes.<sup>41</sup>

According to Robertson, the simple existence of fair elections guarantees that politicians can, to some extent, be held liable to the actions taken while in public office.<sup>42</sup> Any institution that strengthens the harm imposed on politicians by the loss of elections will, therefore, enhance the force of this reward mechanism to control politicians' behavior. Rules (or institutions) that lengthen politicians' time horizons increase the force of elections as a reward device. The more the system biases politicians toward long-term goals, the higher are their incentives to stick to good governance. For example, political systems that allow for executive re-elections, or that make parties relatively stronger *vis-a-vis* candidates, should have fewer myopic politicians. Existence of checks and balances mechanisms across different branches of power including the parliament. Separation of powers, together with checks and balances mechanisms and the right incentives design, help prevent abuses of power, with different government bodies disciplining each other in the citizens' favor. This can be true regarding the relations among the executive, legislative, and judiciary

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<sup>40</sup> Ellen G. (2009). *Analyzing Politics: An Introduction to Political Science, (4th Edition)*. Belmont: Wadsworth (Vol. 1. No. 2, p. 44)

<sup>41</sup> Mitrany, D. (2006). *A Working Peace System*. Chicago: Quadrangle Books

<sup>42</sup> Robertson, A. (2009). *European Institutions: Co-operation: Diplomacy: Unification*, New York: Frederick A Praeger (Vol. 5, p. 180-202)

powers, and also regarding the relations among different levels of the executive power.<sup>43</sup>

According to Sandholtz parliamentary systems allow for a stronger and more immediate monitoring of the executive by the legislature, which should increase accountability and, therefore, reduce corruption.<sup>44</sup> As long as it is not in the interest of one of the government branches to collude with the other branches, separation of powers creates mechanisms to police and punish government officials that misbehave, thus reducing the equilibrium level of political instability. Moreover, developing adequate checks and balances for particular contexts may take time, either as a result of an institutional learning process or because of some inertial feature of corruption.<sup>45</sup> Political stability, in this case, is also an important factor determining the efficacy of the checks and balances mechanisms and the level of corruption.

Despite the fact that many authors wrote on the activities of the parliamentary diplomacy in the efforts to achieving political stability, not many worked in the area of the Kenyan Parliament and its efforts in ensuring political stability. Thus, apart from Oyugi who have done some work in the area, no other work directly deals with this all important research area.<sup>46</sup> This study therefore seeks to fill in this gap and

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<sup>43</sup> Teodo L. (2009). *The Contribution of the Neo-functionalism and Intergovernmentalism Theories to the Evolution of the European Diplomacy Process: Journal of Alternative Perspectives in the Social Sciences*, (May, 2009).

<sup>44</sup> Sandholtz, W. (2007). European Diplomacy and Supranational Governance: in the *Journal of European Public Policy* (Vol. IV, p. 297-317)

<sup>45</sup> Robertson, A. (2009). *European Institutions: Co-operation: Diplomacy: Unification*, New York: Frederick A Praeger (Vol. 3. p.12)

<sup>46</sup> Oyugi, W. (1994). *Politics and Administration in East Africa*. Nairobi: East African Educational Publishers

raise certain questions on the role parliamentary diplomacy in maintaining political stability.

### **1.5 Significance of Study**

Many have argued that development of African nations would come about if they are able to sustain growth and have a stable political background. This they argued can be achieved only when they have democracy that ensures diplomatic ties with other nations. This study will help in identifying the impact of diplomacy on economic growth and the extent to which democracy contributes to political stability in Kenya.

The study will also serve as bases for further work in identifying how political regimes determine the parliamentary diplomacy of a country. The study will add up to existing knowledge on the relationship between diplomacy and political stability. Traditionally, the role of Parliament is conceived as that of making laws, holding the Executive to account and representing the citizenry by debating issues on their behalf. In modern times, more responsibilities have come to be associated with this institution. Parliamentarians are expected to act as the people's representatives, custodians and promoters of democratic values, provide oversight over the Executive and to play the role of domesticating international issues that require the input of a popular institution for the sake of legitimacy. The study will be concerned with what role that the Kenyan Parliament is playing in strengthening the country's political base. To the policy makers in the partner states, this study will offer them an opportunity to re-think not only the role of their national parliaments in the revival, promotion and eventual success of the parliamentary diplomacy but also the role that the national parliaments could play in ensuring due process follows in the realization of stable political economy.

## 1.6 Research Hypothesis

- i. Parliament legislative roles have no significant effect to political stability
- ii. Plenary sessions dealing with foreign policy have no significant to political stability
- iii. Kenyan Parliament control of election monitory process have no significant political stability

## 1.7 Theoretical Framework

Typically, three types of institutionalism are identified. These, Terlinden called them sociological, historical, and political institutionalism.<sup>47</sup> However, the basic similarity in all these institutional theories is the claims that factors, identified at a higher level is used to explain processes and outcomes at a lower level of analysis. Thus, institutionalists tend to avoid both individual level explanations and explanations situated at the same level of analysis. Other scholars also distinguish between old and new institutionalisms. In his review Sandholtz indicated that the old institutionalism has to do with central issues such as influence, coalitions and competing values, along with power and informal structures.<sup>48</sup> The new institutionalism, on the other hand, concerns itself with emphasis on legitimacy, the embeddedness of organizational fields, and the centrality of classification, routines, scripts, and schema.

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<sup>47</sup> Terlinden, U. (2004). *African Regional Parliaments - Engines of Diplomacy and Democratization: (Hintergrundinformation aus der Internationalen Entwicklungszusammenarbeit)*. Nairobi: Freidrich Ebert Stiftung Treaty for East Establishment of the East African Community African (1999): Arusha: East African Community

<sup>48</sup> Sandholtz, W. (2007). European Diplomacy and Supranational Governance: in the *Journal of European Public Policy* (Vol. IV, p. 297-317)

In general, the theory of institutionalism believes in the multiplicity of actors in the international system. It also argues out that unity and friendliness is key to international cooperation.<sup>49</sup> Thus, institutionalism sees all actors whether individuals, organizations, or nation states as affected by institutions built up in much wider environments. Individuals and organizations are affected by societal institutions, and nation-states by a world society. According Loewenberg, one of the proponents of this theory, international organizations are purposefully created to solve specific problems by their founders.<sup>50</sup> There is therefore the need for unity among states in order to collaborate in finding solutions to these problems. Institutionalists also challenge the dominance of the state in the international system. This is because, given the nature of contemporary society, there are many technical issues ranging from economic, social, legal, and those that border even on terrorism. This requires institutions that are technical in nature to find solutions to the myriad of problems that emerge daily.

Similarly, Haas also assert that institutions are important because they shape the behavior of states positively.<sup>51</sup> This enables states to achieve mutually beneficial outcomes. The behavior of political leaders and their conducts are shaped through institutions or representative government which serves as a catalyst to good governance. To the typical realists such Ellen, there is a very strong notion of society as made up of bounded, purposive, sovereign, and rational actors.<sup>52</sup> In the field of

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<sup>49</sup> Mary, J. (1997). *Organisation Theory: Modern, Symbolic and Post Modern Perspective*. New York: Oxford University Press (Vol. IV, p. 29-31)

<sup>50</sup> Loewenberg, G. (2009). *Modern Parliaments; Change or Decline?* (New York: Aldine. Atherton Inc).

<sup>51</sup> Haas E. (2011). International Diplomacy: The European and the Universal Process, *International Organization*. (Vol. 15, No. 3. p. 366-392)

<sup>52</sup> Ellen G. (2009). *Analyzing Politics: An Introduction to Political Science, (4th Edition)*. Belmont: Wadsworth (Vol. IV, p. 12-17)

economics, these actors might be individuals or organizations, operating in market-like environments.

In political science, they might be sovereign nation-states operating in an almost anarchic environment. To the realists therefore, institutionalism, in such schemes, involves the idea that some fundamental institutional principle must be in place before systems of such actors can effectively operate. Non-realists such as Adar on the same subject, also agreed to the point that institutions, just like regimes, matter only to the extent that they cause states to behave in the ways they would not have otherwise behaved.<sup>53</sup> In this view the non-realist also observes institutions as potent means for regulating actions and behaviours of states and their various actors. In this view, the Kenyan Parliament comes in handy.<sup>54</sup> The parliament as an institution seeks, among other things, to regulate the conducts of the state to conform to good governance practices. States, left alone without any regulation, may trample on the human rights of their members willingly or unwillingly.

## **1.8 Methodology**

The study relied on the following methods: an interview guide and document analysis of books, newspapers, journals, historical documents and speeches. This study was based in Nairobi. This is because most of the literature and other relevant information on the performance of parliament was drawn from the parliamentary Hansards that are readily available in the Kenyan Parliament library.

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<sup>53</sup> Adar, K. (2011). 'An Investigation and Analysis of the Causes of the Disdiplomacy of East African Community', MSc. Scholarly paper, Indiana State University (Vol. IV, p. 21)

<sup>54</sup> Okoth, P. (2010). *Intermittent Tensions in Uganda-Kenya Relations: Historical Perspectives*. Nairobi: University of Nairobi, Staff Seminar No. 6 1989/1990, Department of History, March

The study used both primary and secondary data. Primary data was collected from interviewing member of the Departmental Committee on Defence and Foreign Relations in the Eleventh Parliament (2013-2017). The Committee has eleven members and therefore the Committee comprised of twenty-two (22) interview who will give valuable information with regard to how the independent variable (Kenyan Parliament) has contributed to the dependent variable (political stability).

Secondary data is readily available from the literature review parliamentary diplomacy, journals, parliamentary committee reports, government policy documents, newspapers and unpublished theses from the University library. Secondary data was obtained online from the Parliamentary Bill Tracker that contains all the bills since 2000.

### **1.9 Chapters Arrangement**

This research is in five chapters.

Chapter one is about the background of the study which includes the background to the introduction, statement of the research problem, objective of the study, research questions, and rationale for the study, theoretical framework, literature review, methodology and the chapter arrangement.

Chapter two gives an overview of the Kenyan parliament. It looks at the organs of the parliament, growth and transition in Kenyan parliament, parliament mandate as well as vision and mission of the parliament. The chapter ends by examining the objectives and the core values of the parliament in ensuring political stability.

Chapter three gives an overview of national parliaments and foreign policy. It looks at Kenya foreign policy and political stability, Kenya foreign policy and political

stability, parliament role in fighting conflict and human rights violations, parliament legislative roles and political stability. The chapter ends by giving a conclusion on parliament (legislative) role in ensuring political stability

Chapter four presents analysis and findings of the study as set out in the research methodology. The study findings are presented on the role 'parliamentary diplomacy' in maintaining political stability: with specific reference to a case of Kenya 2000-2014. The data was gathered using interviews.

Chapter five presents summary of the findings, conclusions based on the findings and recommendations there-to on the role 'parliamentary diplomacy' in maintaining political stability. The chapter also presents recommendations for further studies.



## CHAPTER TWO

### ROLE OF PARLIAMENT IN POLITICAL STABILITY

#### 2.0 Introduction

This chapter gives an overview of the Kenyan Parliament. It will look at the organs of the Parliament, Growth and Transition in Kenyan Parliament, parliament mandate as well as vision and mission of the Parliament. The chapter will end by examining the objectives and the core values of the Parliament in ensuring political stability.

#### 2.1 Overview of the Kenyan Parliament

According to Adar<sup>55</sup> parliaments in jurisdictions of varied democratic persuasion are the epitome of good governance attainable through their core functional mandate of law making, representation and oversight as guaranteed in the country constitution. Parliamentary transition is a constant reality in democratic governance. Kipkemoi<sup>56</sup> states that globally, Parliaments are continually evolving both in practice and tradition as the best possible system of governance is sought to shape the destiny of respective countries that derives from internal/local experiences. Zwingina<sup>57</sup> states that the ultimate goal for this transition is to entrench democracy acceptable to the citizens and which conforms to internationally accepted norms. A nation possesses its own unique motivations to pursue reforms which derive

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<sup>55</sup> Adar, G.K. (1999): The Interface between Elections and Democracy: Kenya's Search for a Sustainable Democratic System, 1960s-1990s, in J. Hyslop (ed.) African Democracy in the Era of Globalization, Johannesburg: Witwatersrand University Press.

<sup>56</sup> Kipkemoi, K. (2003). *Working Structures of Parliaments in East Africa*. Friedrich Ebert Foundation, Nairobi. (Vol. IV, p. 27-37)

<sup>57</sup> Zwingina, N, S (2006). The Role of the Legislature in Democratic Governance: The Kenya Experience". Analysis and Research Project, National Assembly, Mombasa. (Vol. IV, p. - 31)

mainly from historical, cultural, or demographic characteristics, and circumstances that may apply solely to that country. Existing institutional and political factors have significant influence in shaping legislative design .The transition process is a collective effort of groups in and outside the political arena.<sup>58</sup> Basic considerations of a transition process are centered on the institutions of governance and how their powers are invested and checked for each arm of state. The anchoring factor in all these is the constitution a given jurisdiction adopts. Constitutional repeal, though quite costly is a sticky issue for many countries. The bone of contention in such governance processes revolves around issues on how to form the legislative arm; electing the members and their numbers; what powers to invest in it (and in other branches of government); and how to organize its internal functions and deliberations.<sup>59</sup> These are crucial in determining how the government and the democracy will function .There are however no simple or universal answers to any of the above questions. Ultimately, the transition process is a mixture of the following cultural considerations; historical experiences; and political realities unique to the jurisdiction. According to AUC<sup>60</sup> good information is the indispensable raw material for effective and reliable decision-making. The library of parliament is a critical resource for a legislative researcher and therefore a synergized interaction between the two sections is of paramount importance in terms of facilitating the work of the mutual clients. Indeed, effective performance by legislators of these constitutional responsibilities requires building adequate capacity by legislatures to enlarge the degree of meeting client needs.

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<sup>58</sup> Teodo L. (2009). *The Contribution of the Neo-functionalism and Inter government mentalism Theories to the Evolution of the European Diplomacy Process: Journal of Alternative Perspectives in the Social Sciences*, (May, 2009).

<sup>59</sup> Ibid p 20

<sup>60</sup> African Union Commission (AUC), 2003, Charter on Democracy, Elections and Governance.

## **2.2 The Origins of Parliament**

According to Haas <sup>61</sup> the British Parliament has the most documented history dating back to almost a thousand years. It is hence regarded as the mother of Parliaments. But the Parliament of England started from very humble beginnings. The King of England was in constant need of funds - those days called tributes -to finance his wars overseas. Haas states that the Barons in England would therefore be summoned by the King to appeal to them to bring more money to pay the army. They would meet the King and agree how much tribute each one of them would bring to the crown. That is how Parliament sourced its power to authorize taxation.<sup>62</sup> And because these Barons would bring the money from their subjects, they were keen to see the results their tributes brought to the Kingdom. The origin of the authority of the Government to propose taxation is the organ with the mandate to do what it promised the voters and therefore should come to Parliament with concrete proposals how it proposes to raise the revenue to finance public expenditure.<sup>63</sup>

According to Bache <sup>64</sup> as the King became busier, he needed to have a trusted Minister who would look after the affairs of the Government so that when the Barons come, there would be a competent man to answer their questions. This was the emergence of the Crown's Minister variously called the Prime Minister, Chancellor or Chancellor of the Exchequer. But there was another silent revolution taking place in England. Several rich people whose wealth was derived from overseas trade (including slavery) did not belong to the landed gentry and therefore could not be Members of Parliament. Since their wealth qualified them to rub shoulders with the

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<sup>61</sup> Haas E. (2011). *International Diplomacy: The European and the Universal Process*, *International Organization*. (Vol. 15, No. 3. p. 366-392)

<sup>62</sup> Ibid P. 56

<sup>63</sup> Ibid p20

<sup>64</sup> Bache, I. (2006). *Politics in the European Union*, 2nd edition (USA: Oxford University Press).

Establishment, the House of Commons was created to take care of such people. The House of Commons became elective and assumed special powers on money bills and other bills having something to do with taxation.<sup>65</sup>

Mugasha<sup>66</sup> states that from the beginning, therefore, Parliament in the U.K. was a special club where leaders would come and debate any issue concerning their society. It did not even have written rules of procedure, i.e... Standing Orders, until about 140 years ago. But the Industrial Revolution in Britain changed the informal club nature of debates in the House. The Government of the day had to pass urgent laws to govern new investment in public infrastructure (the canals and railway-lines), town planning and land use systems, etc. Control of the legislative timetable and calendar, therefore, came to be very important. Irish Members were also involved in ceaseless filibusters in the House and all this was meant to either delay or block legislation.<sup>67</sup> Through this growth in parliament then many countries have seen the importance of parliament hence its adoption.

### **2.3 Parliament Growth and Transition in Kenya**

Slade<sup>68</sup> points out that parliament is Kenya's central political institution of governance and derives its mandate from the people. The road to the present day Parliament in Kenya has been long and not without drawbacks with similar experiences replicated in many other jurisdictions around the world. The powers and

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<sup>65</sup> Mugasha, F. (2007). *General Commonwealth Parliamentarians Association Journal*. (May 9, 2007. p. 19)

<sup>66</sup> Ibid p 22

<sup>67</sup> Bache, I. (2006). *Politics in the European Union*, 2nd edition (USA: Oxford University Press).

<sup>68</sup> Slade, H. (2012). *The Parliament of Kenya*. East African Publishing House, Nairobi, Kenya. (Vol. IV, p. 31)

duties are expressly conferred upon parliament by the Constitution of Kenya.<sup>69</sup> In many respects, Kenya's Parliament mirrors that of many other African and Commonwealth states. It existed under British rule for more than 40 years, had a British model of government imposed upon it at independence, and soon become a one-party state headed by a popular leader. According to Burke<sup>70</sup> the history of parliament in Kenya is an example of steady progress from colonial autocracy to a true modern democracy. Burke says that by accommodating cultural and historical realities the Kenyan Parliament has continued to allow for opposition and dissent within the system, while also providing stability for the governed to co-exist amidst diversity. As a country with a colonial past, the transition process has also evolved through two distinct phases the pre-independence era, and the post-independence parliament. These two phases amplify the transition process for the Kenya Parliament. However, the trajectory of Parliament to exercise its constitutional mandate over time was shaped and weakened by subsequent amendments to the independence constitution.

A study by USAID states the present Parliament is the eleventh elected Parliament in Kenya since the attainment of Independence in 1963 and also the forth Parliament since the return of multiparty political dispensation in 1991.<sup>71</sup> According to Slade the 11th Parliament of Kenya is the meeting of the legislative branch of the national government of Kenya, which began on 28 March 2013. It is the first Parliament to incorporate the structural reforms laid out in the 2010

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<sup>69</sup> Burke, F. G. (2010) 'Unity and Diversity in East Africa- Synthesis Dialectic' a paper prepared for and delivered at Duke University's commonwealth studies centre, February 15, 2014, p. 25  
Constitution of Kenya (2010)

<sup>70</sup> Ibid P.89

<sup>71</sup> USAID (2011): Democracy and Governance Assessment: Republic of Kenya, 2005

Constitution.<sup>72</sup> The constitution re-established the Senate and increased the size of the National Assembly from 224 seats to 349 seats. In the 2013 parliamentary elections, the Jubilee Alliance won a majority of seats in both the National Assembly and the Senate. Slade<sup>73</sup> states that there are different forms of legislatures. These vary from rubberstamp legislatures, emerging legislatures, to transformative legislatures. Kenya's legislature had since transformed from being a rubberstamp legislature to an emerging legislature under the former constitution. The National Assembly is the lower house of the Parliament of Kenya. Prior to the 11th Parliament, it had served as the unicameral legislature of the country. It has a total of 349 seats; 290 elected from the constituencies, 47 women elected from the counties and 12 nominated representatives. The speaker serves as an ex officio member.<sup>74</sup>

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<sup>72</sup> Slade, H. (2012). *The Parliament of Kenya*. East African Publishing House, Nairobi, Kenya.

<sup>73</sup> Slade, H. (2012). *The Parliament of Kenya*. East African Publishing House, Nairobi, Kenya.

<sup>74</sup> *Ibidp*.20

## **2.3 Organs of the Parliament**

### **2.3.1 Legislation**

According to Haas<sup>75</sup> in the classical sense the key role of parliament is to make new laws and change or improve old ones laws. This is the reason why the parliament is also known as the legislature. However, the function of legislation of parliament requires both capacity and cooperation. In other words, effective legislation rests on two pillars: Parliamentarians need to have the required expertise and support to make effective and fair laws and there must be a sense of minimum cooperation within parliament and between parliament and the Executive, in particular as regards the sensitive issue of state. Ellen<sup>76</sup> urges that as a matter of fact laws must be efficient and effective. Most laws are written by government departments and introduced into the parliament by government ministers. In most parliamentary systems, the function of law making in parliament entails, among others, the following: Establish parliamentary committees on specific subjects (e.g. on health, education, budget, Corruption, etc.) and, if necessary, increase their powers; Make sure that committees have enough time (and resources) to make them familiar with the issues to be decided, including support staff; Provide expertise from within parliament (Library, research units) and m allow for outside research facilities, including use of modern technology; Train new MPs and staff on their rights and duties, including on pertinent subjects (e.g. on the budget); Draft a code of conduct for all MPs in parliament (e.g. use of abusive speech) Ensure fair and clear procedures (e.g. time allocation of speeches; motions, hearings, Orders of the Day); Ensure political neutrality of the

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<sup>75</sup> Haas E. (2011). *International Diplomacy: The European and the Universal Process*, *International*

<sup>76</sup> *Ibid* p 23

parliamentary secretariat; Establish a committee of mediation between the parliament and the Executive, if necessary.<sup>77</sup>

The cardinal role of MPs in Kenya is to consider, refine and pass legislative bills, which upon Presidential Assent become Acts of Parliament.<sup>78</sup> This also includes bills for possible amendments on the constitution itself. According to Lays<sup>79</sup> MPs have the power to also introduce legislation of their own, through Private Member's bills. Private Member' bills are indeed public interest policy issues sponsored by an individual member or party and not a member of the cabinet. These could either be for a new legislation or seeking to amend existing laws. An opposition MP or any other backbencher in parliament should ideally use this instrument as a means or platform of drawing attention to areas of critical public concerns that is either lacking a guiding regulatory framework or neglected by the government.

According to Adar<sup>80</sup> in Kenya the Legislature has three critical functions with regard to Public Finance. These are; Revenue mobilization (imposition of taxes and borrowing); Allocation of resources; Supervisory function. Under the Constitution, Exchequer and Audit Act, and respective tax laws, only Parliament can impose taxes and authorize public borrowing. However, in practice there are serious Constitutional restrictions on parliamentary ability to act, especially as provided under Article 48. Parliament is further inhibited by other factors such as budgetary traditions and

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<sup>77</sup> Ellen G. (2009). *Analysing Politics: An Introduction to Political Science, (4thEdition)*. Belmont: Wadsworth. (Vol. IV, p. 200)

<sup>78</sup> African Union Commission (AUC), 2003, Charter on Democracy, Elections and Governance. (p. 29-31)

<sup>79</sup> Lays, C., & Robson, P. (2005). *Federation in East Africa Opportunities and Problems*. Nairobi: Oxford University Press

<sup>80</sup> Adar, G.K. (2009): The Interface between Elections and Democracy: Kenya's Search for a Sustainable Democratic System, 1960s-1990s, in J. Hyslop (ed.) *African Democracy in the Era of Globalization*, Johannesburg: Witwatersrand University Press



practices which allow for delegation of powers on taxation with very limited reporting.

### **2.3.2 Surveillance or Oversight Activity**

According to Angelo<sup>81</sup> parliament has powers of oversight or watchdog over public funds as empowered by the Constitution. The watchdog function further gives parliament what is called the ‘power of the purse’ where they regulate the revenue and expenditure of public resources through the budgetary process among other oversight roles.

The Constitution of Kenya empowers MPs to debate and pass the budget and monitor all expenditure of public funds. Review of Annual Ministerial estimates provide MPs with a particular significant opportunity for holding the Government accountable for its policies and administrative practices regarding use of public funds. Rules of procedure (standing orders) facilitate MPs to ask questions directed especially at Government Ministers on policy issues pertaining to their ministerial responsibilities in service delivery, protection of Kenyan’s right and promotion of their interests. Some of the most widely known and effective instruments in parliament by which Members scrutinize government activity is through Questions and Motions, Committee probes and seeking ministerial statements.<sup>82</sup>

**Committee Inquiries:** The entitlement of backbenchers to committee membership further avails them the platform to question ministers and public service officials in the course of committee deliberations and is an important means of exercising surveillance and achieving government accountability. On the sidelines, in execution

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<sup>81</sup> Angelo Panesbianco (2008): *Parties: Organization and Power*, Translated by Marc Silver, Cambridge, Cambridge University Press (Vol. IV, p. 20-30)

<sup>82</sup> Brian, R. (2007) “The Parliament’s needs for free access to information: Possible barriers and practical solutions”, Speech at the 63rd IFLA General Conference, Copenhagen, Denmark

of their duties, MPs are expected to, once in a while, call press conferences to state their positions on various national issues, or make inspection visits to various government projects, facilities, etc. to establish facts and circumstances.<sup>83</sup>

Where MPs are not satisfied with Ministers' responses to their questions, they are allowed to raise the subject of such a question by moving a motion for adjournment of the House for brief debate on matters of public/national interest. To be granted the opportunity to raise a matter of national importance, the MP should inform the Speaker in advance. Public petitions: Kenyans have a right to petition parliament through any of their MPs on any public interest matter that they feel has not been raised or addressed by the government. By raising such issues, the performance of a given Minister/ministry, and indeed, the entire government is thus brought to close focus by the House.<sup>84</sup>

### 2.3.3 Representation

According to Nye<sup>85</sup> the representation of people and their interests is the basis of all parliamentary systems. The representational role of parliament concerns norms of behavior. In all of its functions, the legitimacy of parliament and its members rest upon a central claim: that parliament institutionalizes political representation in society. The concept of representational role of parliaments aims at understanding the relationship between citizens and their representatives, the MPs. It focuses in particular on the questions of how MPs relate themselves to the electorate, whom they represent in their decision making and in what way they aim to represent a given constituency. This representational function of parliament can be analyzed from

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<sup>83</sup> Ibid p.18

<sup>84</sup> Nye, J. (2011). *Peace in Parts: Diplomacy and Conflict in Regional Organization*. Boston: Little, Brown and Company.

<sup>85</sup> Ibid p.22

different perspectives: political, geographical, social, economic and administrative representation. Representational function of parliament refers to the need of making parliament more responsive to people's needs, irrespective of their political, geographical or social distinction. While physical presence of people or a group of people in parliament may be part of the answer, it is not the whole answer. Effective representational role may require structural changes at parliament so that parliamentarians can speak for the constituencies, even if they cannot speak to them. Examples of such structural changes could include setting up special parliamentary committees that help raise awareness of specific issues (gender, equal opportunities for men and women, disables, children and minority rights, environment, climate change, etc). Such parliamentary committees could have varying mandates, including looking inwards at the working of the parliament without the presence of the interested groups. In addition, they could also hold hearings around the country, enabling less mobile sections of the community, including women with family responsibilities, to participate without the costs of travel.<sup>86</sup>

Ssempembwa<sup>87</sup> states that in most parliamentary systems of governance, the function of representation in parliament entails, among others, the following: Make MPs stay in contact with their constituencies, this includes making resources and time available to MPs; Invite citizens to parliament's sittings and to their MPs' offices; Hold information workshops in the Counties on the work of parliament (successfully conducted in Kenya, for instance); Involve civil society in parliament's work (e.g. committees, discussion groups); Provide special training to MPs on their role as representatives of the people; Request MPs to keep promises made during election

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<sup>86</sup> Ssempembwa, F. (2005). *The Role of Regional Parliaments: Workshop on the Role of Regional Parliament (ECOWAS, EALA, SADC-PF) in Regional Diplomacy Efforts in Africa*, Nairobi: Fredrick Ebert Foundation

<sup>87</sup> Ibid p 20

campaigns, thereby delivering results for the constituencies (health, education, infrastructure).

#### **2.4 Basic Role or Function of the Legislature**

According to Kitonga<sup>88</sup> law making: Law-making. requires reconciling of differences once articulated, as well as pressing the legislature's claim to power against the executive and other power-holders, such as political parties. This requires legislative processes capable of reconciling conflicts and bringing to bear enough expertise to be taken seriously by the executive branch and other actors in the system. Representation: Legislatures are diverse in their memberships (usually designed to represent a broader range of interests/characteristics/places) from which a first hearing and early support may be gained.

Constituents have greater access; they are often more likely to feel that they have a claim on a representative than on other government officials. And legislative proceedings are often organized to maximize public attention to particular controversies and to offer participation opportunities ranging from contacting individual representatives to organized hearings. How representatives conceive of their job affects how constituents are viewed. Varieties of roles include the commonly cited roles: Delegate conceptions (in which the legislator mirrors or transmits constituency attitudes), Trustee conceptions (where the legislator determines what is in the constituent's best interests). Politicos (where the legislator serves as a broker finding common ground amidst competing constituent interests), Leninist conceptions (the party leads constituents through representatives),

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<sup>88</sup> Afrifa K. Kitonga (2009) *Democratic Theory and Practice in Africa*, Portsmouth, NH, USA & Heinemann, London. (Vol. V, p. 166)

and Exemplar conceptions (where the legislator fulfils symbolic concerns of constituents by sharing racial, ethnic, religious or other characteristics).<sup>89</sup>

## **2.5 Political Stability; Factors That Influence Legislative Effectiveness**

The factors that drive a legislature's role in law making and oversight processes are: the extent of its formal powers; the adequacy of the capacity provided by its procedures/structures/support; the amount of political space/discretion afforded by other power holders (executives, parties); and the goals of the members and leaders of the legislative bodies themselves. Formal legislative powers: What is the scope and extent of a legislature's power to enact laws? In some systems legislators have a monopoly on the right to introduce legislation directly, while in others legislators can only consider proposals originated in the executive. There is also variation in the range of options in shaping legislation (amendment, rejection, referral back to executive branch), in the finality of legislative passage (executive veto powers and override possibilities and requirements), and the impact of legislative rejection or inaction (including the possibility of executives ruling by decrees which have the force of law). An important subset of law making powers is the extent of a legislature's influence over taxing and spending. These range from having a monopoly over the origination and passage of such measures to pro forma approval powers over these decisions made elsewhere. Finally, there is the degree to which a legislature can influence the promulgation of administrative regulations which interpret statutes and the judicial review process which might pass on the meaning and validity of laws.<sup>90</sup>

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<sup>89</sup> Ibid p.33

<sup>90</sup> Throup, D. W., & Hornsby, C. (1998). *Multi-Party Politics in Kenya: The Kenyatta and Moi and the Triumph of the System in the 1992 Election*. Oxford, Nairobi, Athens: James Currey, E.A.E.P, Ohio

Legislatures range from being relatively weak in formal powers to quite strong. Most people realize that strong formal powers do not guarantee an influential legislature. Capacity: Formal powers mean little if a legislature lacks the capacity to use them. The rise of many American state legislatures as effective bodies beginning in the 1960s, for example, came with investments in capacity building. The extent of capacity can be gauged in a number of areas. There are variations in capacity for management of process (referral, dispositions, scheduling and limiting debate etc.) and degree of internal complexity (level of effectiveness of committee system, respect for specialization/expertise, deference to committee decisions, etc.). In addition, there are differences in the extent to which there is an adequate administrative structure to support the above activities. Is there, for example, a system to meet the unique information needs of legislators that blends the technical/analytic/policy components of decisions with the political consequences/prospects/opportunities presented?<sup>91</sup>

Political Space: When a legislature gains influence, it usually means that others have lost a measure of control. An important determinant of how much power a legislature can exercise, then, is the extent to which other important power holders most importantly executives and parties cede, lose, share, exchange or let slip the power they hold. The range is wide, with authoritarian systems on one end (autocratic executives, hierarchical-disciplined parties) providing little political space, to more pluralistic and competitive systems providing more. Political Will: A final consideration has to do with what the leaders and members of a parliament want to do. While formal powers and the factors that drive the general limits of political space often change slowly if at all, a number of parliaments have changed markedly due to

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University. ( p. 2)

<sup>91</sup> Sande, M. (2011). Parliamentary Oversight Enhanced. Kenya Parliament, 3, 20-21.

leaders and members choosing to exercise their formal powers more aggressively and to exploit openings in political space as they occur.

## 2.6 Structure of Legislature

According to Salih<sup>92</sup> the structure of the legislature (parliamentary or presidential) affects relations between the legislature and executive, between the public and their representatives, and between the representatives themselves. The typical example of a parliamentary system of legislature is the United Kingdom while that of the presidential is the United States of America. Parliamentary system - The Prime Minister is selected from among and by the parliamentary majority, retains his/her position until he/she loses party support or the majority party calls for new parliamentary elections (Representation Popular will translated into majority party dominance) Presidential system. The President is elected in a national election. Members of Congress are elected by separate constituencies that represent the nation in the aggregate. Only when the presidential candidates fail to achieve a majority will the outcome be decided in the House of Representatives. Presidents serve for a fixed term and can be removed by impeachment. In Nigeria however a president must win at the polls; there is no provision for his election to be decided by the Legislature.<sup>93</sup>

Rugene, and Shiundu<sup>94</sup> states that By way of summary a democratic parliament is one that is: Representative, which means that it reflects, as closely as possible, the social and political diversity of the population, encourages the full participation

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<sup>92</sup> Salih, M. A. M. (2005a). Conclusions. In M. A. M. Salih (Ed.), *African Parliaments: Between Governance and Government* (pp. 247-263). New York: Palgrave Macmillan.

<sup>93</sup> Ibid p.10

<sup>94</sup> Rugene, N., & Shiundu, A. (2012, April 20, 2012). Parliament picks taxpayer's pocket - again, *Daily Nation*, p. 1.

of women, and ensures equal rights and protections for all of its members so that they can freely exercise their mandate. Transparent, which means that it works in a way that the public can see, either directly or through communication media, such as print or electronic news organizations. Accessible, which means that the public, including associations and movements of civil society, can be involved in its work. Accountable, which means that there are opportunities for voters to hold members of parliament to account for their performance in office and integrity of conduct. Effective, which means that parliament's work, which encompasses not only domestic law-making and oversight but also the increasingly important realm of international relations, must be well organized to ensure that it serves the needs of the whole population. Diversified Interests in the polity. There are various and diverse interests in society and it is the role of legislation to ensure that each is given enabling environment to operate and contribute to national development.

## **2.7 Mandate Vision and Mission of the Parliament**

According to Oyugi<sup>95</sup> many Kenyans do not seem to have a clear understanding about the precise role of their members of Parliament within and without Parliament. Kenyan voters at the grassroots have over the years always elected or re-elected an MP based on certain expectations including support and attendance to fundraisings, burials of their deceased, payment of hospital bills of their loved ones and school fees for their children and solving of any other personal as opposed to community or national problems. Whether the MP attends and represents them well in parliament is

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<sup>95</sup> Oyugi, W. (1994). *Politics and Administration in East Africa*. Nairobi: (pp. 247-263) East African Educational Publishers.



beside the point. Therefore, there is need to enhance civic education and awareness amongst the citizen on what the actual role of an MP is.<sup>96</sup>

Ellen<sup>97</sup> argues that elections must be held regularly, under transparent conditions in an even playing field. Civic education is still a major issue in the United States. It is encouraged by the Government. Our people must be taught the role of an M.P. Elections must be free and fair so that by and large, their results represent the views of the general public. According to Ellen<sup>98</sup> elections should not be held just to endorse the Government in power. Neither should they be regarded as a formality or ritual meant for the incumbent Government to be seen to be renewing its mandate. On the contrary, elections should be serious contests where ideas are let loose in the political market place and the victor is decided upon under transparent rules, in this country we do not have rules that control or prevent monopoly media ownership, use of money during elections to gain unfair advantage, etc. This situation must be corrected.

According to Gichohi and Matiang'i<sup>99</sup> the Constitution of Kenya gives Parliament legislative power (section 30) which it exercises by Bills passed "by the National Assembly" (section 46(1)). Section 47(1) of the Constitution gives Parliament power to alter the Constitution while section 59(3) gives it power to remove "the Government of Kenya" from office by passing a vote of no confidence in the Government.

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<sup>96</sup> Ibid p.44

<sup>97</sup> Ellen G. (2009). *Analyzing Politics: An Introduction to Political Science, (4thEdition)*. Belmont: Wadsworth. (pp. 27-29)

<sup>98</sup> Ibid p 26

<sup>99</sup> Gichohi, P. &Matiang'i, A. (2014). Conference Paper on *Modalities for the Establishment of the East African Parliament Institute (EAPI)*. (pp. 24-26) Nairobi: Parliament Press

Gichohi and Matiang'i<sup>100</sup> states that in modern political philosophy, Parliament is not sovereign. During the era of Enlightenment, monarchs saw themselves as Divine appointees and ipso facto were the sovereigns. Today, it is the people who are sovereign but Parliament is only supreme in so far as its law-making role is concerned. Parliament is therefore a creation of the people and its major role must be to guard and protect the sovereignty of the people who elected it.

The authority of Parliament is thus derived from the sovereignty of the people. Members of Parliament are those citizens who risked allowing their names to appear on a ballot paper. The voters from every corner of the country turned out in large numbers to vote for a representative who would listen to their grievances against Government inaction and excesses, misuse of public resources, bureaucratic inertia, misadministration, etc., and speak out against these vices on their behalf. Let it be admitted even grudgingly, there is no group of Kenyans today who enjoy this kind of mandate from the citizens.<sup>101</sup>

That is why the Constitution so jealously and vigorously protects the right of an elected Member to stand up in Parliament during debate and speak up his/her mind without fear of legal redress. The framers of our Constitution believed that a Member needed these rights, privileges and immunities so that he/she might go about his/her job of representing the public unimpeded. Laws that are made in this country must be brought to Parliament for a thorough and fearless debate because a people can become vulnerable and poverty-stricken due to the weak, defective or harmful laws that exist

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<sup>100</sup> Ibid p.19

<sup>101</sup> Teodo L. (2009). *The Contribution of the Neo-functional and Inter-govern mentalism Theories to the Evolution of the European Diplomacy Process: Journal of Alternative Perspectives in the Social Sciences*, (May, 2009).

in their statutes.<sup>102</sup> Parliament must remain firm in its role of probing Government activities so that those who occupy public offices are individuals who are finally accountable to the people on whose behalf they have been given those office so hold. What about if Parliament, instead of being the game warden to guard the game, turns to be the poacher, by being corrupt and passing laws that Members have been paid by an individual to pass?. This may look remote but democracy in every country has come a long way. How do we ensure that we do not elect miscreants to Parliament, individuals who behave like mercenaries?

### **2.7.1 Current Parliamentary Organs and their Role under the New constitution**

According to new constitution Kenya parliament is the law making organ of the government. The new constitution provides for two houses of parliament, these being the SENATE and the NATIONAL ASSEMBLY. Their functions are distinct and set out under the constitution which they have a duty to uphold. The powers of these houses are derived from the people of Kenya. The main role of parliament is to make legislation. It is the only organ allowed to make laws by the constitution but can issue such powers to other authorities by legislation.

#### **2.4.1.1 National Assembly**

The main role of the national assembly members is to debate and resolve matters of concern to the people. In voting there will be a representative to the national assembly from each of the 290 constituencies in the country, 47 women elected as

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<sup>102</sup> Teodo L. (2009). *The Contribution of the Neo-functionalist and Inter-govern mentalism Theories to the Evolution of the European Diplomacy Process: Journal of Alternative Perspectives in the Social Sciences*, (May, 2009).

representatives from each county, 12 nominated members according to the proportion of the parties represented and the Speaker, who is an ex officio member.

Individuals vying to be members of the national assembly should be adult Kenyan citizens and be of good moral standing and if they are independent candidates they need at least one thousand signatures from the electorate to verify their candidacy.<sup>103</sup> They are to strictly conform to the guidelines set out in article 99 of the constitution on qualifications and disqualifications for being a member of parliament. The national assembly members will deliberate over allocation of revenue to the government and will act as an oversight authority on revenue use. It also acts as an oversight body on executive actions and conduct. Representative to the national assembly is basically empowered to cater for interests in the house. Should a member fail to meet the expectations of the electorate, there is a right of recall that can be exercised under article 104 of the constitution.

#### **2.4.1.2 The Senate**

According to the new constitution the senate is comprised of 47 members representing each county in the country, 16 women members who are nominated by political parties according to their proportion of members of the Senate, two members, being one man and one woman, representing the youth, two members, being one man and one woman, representing persons with disabilities and the Speaker, who is an ex officio member. The role of the senate is most importantly to serve the interests of the counties and their governments. It participates in the law-making function of Parliament by considering, debating and approving Bills concerning counties and exercises oversight over national revenue allocated to the county governments. The

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<sup>103</sup> Ibid p.17

senate also participates in the oversight of State officers by considering and determining any resolution to remove the President or Deputy President from office. To be elected as a senator one basically needs the same qualifications as a member of the national assembly although if one is an independent candidate they need at least two thousand signatures from the electorate to verify their candidacy.<sup>104</sup>

In summary, Members of Parliament (MPs) under the new constitution are expected to perform five central roles in national governance, namely:

1. **Making legislation:** to consider, refine and pass legislative bills to improve the lives of Kenyans;
2. **Budgetary allocations:** to provide the funds needed for government operations annually; MPs have responsibility to consider, debate and pass the financial estimates (budget) including taxation measures for raising revenue to finance public development programmes/projects presented by the Executive.
3. **Oversight:** The oversight role extends to scrutiny of financial, administrative and management practices of public officers and other public institutions. In this parliamentarians hold the latter to account for expenditure of such funds as approved by the House to ensure transparency and accountability;
4. **Representation of constituents:** MPs are a bridge between the electorate and the government; hence relay issues facing voters to the government for consideration and press for action. On the other hand, an MP is expected to communicate to the public the ongoing government plans and policies to address their concerns;
5. **Making and unmaking of government (executive):** Parliament has the power to vote out the executive through a vote of no confidence. This is a powerful lever

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<sup>104</sup> Ibid p 25

upon which they can use to determine the life of the Government through exercising the ability to provide or withhold support to either the entire government or a member of the executive.

## **2.8 Parliament and Political Stability**

According to Brian<sup>105</sup> for political stability to prevail in a nation, the parliament must be representative. Brian says that for parliaments to be truly representative, elections must be free and fair. Citizens must have access to information about parliamentary proceedings, legislation, and policy, and be able to engage in continual dialogue with parliamentarians. The quality of elections is crucial as elected representatives can hardly fulfil their roles, specifically the role of representation, if elections are flawed. Free, fair and transparent parliamentary elections are critical to building credible parliaments and parliamentarian's accountability hence political stability. Democratically elected parliament is the only true voice of the people and accountability to the people it serves is the basic plank of a democratic system. In recent democratization processes taking place in Africa since the early 1990s, the citizens, the government and the political leaders are continuously showing progress on their path to building a fully-fledged democracy. Ssempembwa<sup>106</sup> states that most electoral campaigns are open and competitive, thanks to the legal reforms implemented over the last few years and improvements of the countries' legal framework as a whole. In some cases, elections address most of the international standards for democratic elections, both parliamentary and presidential elections.

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<sup>105</sup> Brian, R. (2011) "The Parliament's needs for free access to information: Possible barriers and practical solutions", Speech at the 63rd IFLA General Conference, Copenhagen, Denmark,

<sup>106</sup> Ssempembwa, F. E. (2005). *The Role of Regional Parliaments: Workshop on the Role of Regional Parliament (ECOWAS, EALA, SADC-PF) in Regional Diplomacy Efforts in Africa*, Nairobi: Fredrick Ebert Foundation

However, additional efforts are needed to improve the transparency of the election process, and citizens continue to demand greater openness from institutions involved in election administration this help to improve political stability of a nation.

According to Terlinden<sup>107</sup> parliaments are crucial to the achievement of good governance in Africa. They are one of the key state institutions of democracy, playing an important role in terms of legislation, oversight and representation. Their representational role include ensuring that citizens and other stakeholders have a voice at the national level and are therefore involved in national governance issues. Regrettably, in some African countries parliaments are weak, ineffective and marginalized. The role of parliament and parliamentarians in promoting political stability requires a proper understanding of the concept of good governance. Good governance is an indeterminate term used in development literature to describe how public institutions conduct public affairs and manage public resources in order to guarantee the realization of human rights.<sup>108</sup> Governance describes the process of decision-making and the process by which decisions are implemented (or not implemented). The concept of good governance is often used to compare ineffective economies or political systems with viable economies and political systems. Because the most successful governments in the contemporary world are liberal democratic states, which are mostly found in Europe and the Americas, those countries' institutions often set the standards by which to compare other states' institutions. Given the fact that the term good governance can be focused on any one form of governance, aid organizations, development agencies and partners, and the authorities

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<sup>107</sup> Terlinden, U. (2014). *African Regional Parliaments - Engines of Diplomacy and Democratization*: (pp. 20-27) Nairobi: Freidrich Ebert Stiftung Treaty for East Establishment of the East African Community African (1999): Arusha: East African Community

<sup>108</sup> Ibid p30

of developed countries often focus the meaning of good governance to a set of requirement that conform to their agenda, making the notion of good governance imply many different things in many different contexts.

### **2.8.1 Parliament and Use of the Media**

According to Slade access to information is essential to the health of democracy for at least two reasons.<sup>109</sup> First, it ensures that citizens make responsible, informed choices rather than acting out of ignorance or misinformation. Second, information serves a checking function by ensuring that elected representatives uphold their oaths of office and carry out the wishes of those who elected them. In some societies, an antagonistic relationship between media and government represents a vital and healthy element of fully functioning democracies. The right to freedom of expression and media freedom is recognized internally. Notably, Article 19 of the 1948 Universal Declaration of Human Rights states, Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers. The goal of media development generally should be to move the media from one that is directed or even overtly controlled by government or private interests to one that is more open and has a degree of editorial independence that serves the public interest. If the media is to have any meaningful role in democracy, then the ultimate goal of media assistance should be to develop a range of diverse mediums and voices that are credible, and to create and strengthen a sector that promotes such outlets. Credible outlets enable citizens to have access to information that they need to make informed decisions and to participate in society.

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<sup>109</sup> Slade, H. (2012). *The Parliament of Kenya*. East African Publishing House, (p.16). Nairobi, Kenya.



## 2.9 Conclusion

According to Ssempembwa<sup>110</sup> democratization has become contagious all over the world. It has made people to be known as citizens with rights provided in the Constitution, not subservient subjects of a monarch, emperor or some silly dictator somewhere in a corner. Once people taste the fruits of democracy and freedom, their demands do not become less. Instead, democracy and freedom open more opportunities even for conflicts. But the beauty of it all, a people who want to live in a democratic environment must be prepared to negotiate, debate and hold dialogue on all issues that concern their governance. People who hold the reins of power must do so by consent of the governed obtained in a fair and free elections.<sup>111</sup>

Slade<sup>112</sup> states that this Commission is a very sincere attempt by the people of Kenya to start cultivating a culture for dialogue that will bring greater freedom and understanding among themselves hence political stability. For a longtime, the Kenya Parliament, in the form of a few gallant Members, stood up to demand that serious issues concerning governance of the country be addressed. On several occasions in the past, these gallant Members were silenced through detention without trial, etc.

Solomon<sup>113</sup> concludes that executive arm of the Government spread its tentacles like an octopus to every aspect of life in this country. The democratic space was seriously limited. Slade says that being a good Kenyan meant you were to be a conformist, see no evil, and utter no criticism, etc, against the Government. Finally, I want to salute Kenyans from various walks of life whose thirst for democracy and freedom have

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<sup>110</sup> Ibid p 24

<sup>111</sup> Ibid p25

<sup>112</sup> Slade, H. (2012). *The Parliament of Kenya*. East African Publishing House, Nairobi, Kenya.

<sup>113</sup> Solomon, A. B (2010). "Towards Effective Legislative Research". In *Enhancing Effective Legislative Research, Policy Analysis and Research Project*, National Assembly,

made us see today when all of us are involved in playing a vital role in making the institutions of this country to work for the benefit of our people. The price of freedom is eternal vigilance. This Commission must assist Kenyans to create institutions that will perpetually ensure that the dignity of our people cannot be negotiated with any Government in power. It is the duty of the Government to ensure that the people who elected it into office live decent and respectable lives. Slade<sup>114</sup> says that parliament can only be empowered to be a useful organ of Government if the people of Kenya are empowered to elect a Parliament which will take all the risks needed to stand up for the people's right to be free. This is because freedom is never free. It is when we fight for it that we shall know how precious it is so that we have to guard it all the time.

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<sup>114</sup> Ibid p 40

## **CHAPTER THREE**

### **FOREIGN POLICY AND POLITICAL STABILITY**

#### **3.0 Introduction**

This chapter will give an Overview of National Parliaments and Foreign Policy. It will look at Kenya Foreign Policy and Political Stability, Kenya Foreign Policy and Political Stability, Parliament role in fighting Conflict and Human Rights Violations, Parliament Legislative Roles and Political Stability. The chapter will end by giving a conclusion on Parliament (legislative) role in ensuring political stability

#### **3.1 Overview of National Parliaments and Foreign Policy**

According to AUC<sup>115</sup> the world has changed since the end of the Second World War, and even more so since the end of the Cold War, and if democracy is not to be limited to the domestic dimension of the state then it should (and in practice does) influence foreign policy. Democratic countries have expanded the 'reach' of their parliaments in world affairs. This is because the barrier between the 'domestic' and 'foreign' dimensions has been weakened as politics have become more democratic; it is also because globalization has led many 'domestic' public policies to acquire an external dimension as global issues increasingly affect citizens more directly, be it terrorism, pandemics, climate change, international financial or economic issues.<sup>116</sup> Nowadays executives cannot simply argue that it is 'in the national interest' to do whatever they wish. Having achieved higher levels of knowledge, access to information and

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<sup>115</sup> African Union Commission (AUC), (2006), Charter on Democracy, Elections and Governance.

<sup>116</sup> Ibid pg. 23

participation, modern democracies possess the means to exercise democratic (mainly parliamentary) accountability in most public policy spheres.

Parliamentary input is various and varied. It can refer 'only' to parliamentary control mechanisms, usually budgetary control, or it can extend to influencing long-term foreign policy trends. The fact that some policy areas require more secrecy does not mean that there can be no accountability mechanisms or open debate at all. It simply means that there is less openness. As Ben<sup>117</sup> has argued, democratic doctrine requires the involvement of parliaments in foreign affairs.

Parliaments can try to influence executive agendas by issuing reports and through other mechanisms. Parliamentarians do not need to challenge executives; indeed they very often strengthen them. Issa<sup>118</sup> argues that parliaments lost power to the executive branch after the Second World War, and particularly during the Cold War, because of nuclear weapons and strategic questions. This led to the coining of terms such as 'imperial presidency' (in reference to the United States) or 'nuclear monarchy' (applied to France). It was argued that there was little room for parliaments to control and have a say in various foreign, security and defence policy areas. Since the end of the Cold War, however, there has been a 'parliamentarization' of politics in several public policy areas, as is shown by the growth of 'public' and 'parliamentary' diplomacy.<sup>119</sup> The emergence, consolidation and proliferation of regional and other international parliamentary assemblies is another sign of this trend. Regional integration processes have facilitated the 'parliamentarization' of world politics

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<sup>117</sup> Ben (2012) "Administering and regulating education for national integration in Kenya," presentation to the National Cohesion and Integration Commission (NCIC) People's Conference on Diversity, Ethnicity and Race, Kenyatta International Conference Centre (KICC), Nairobi, March 12-13, 2012.

<sup>118</sup> Issa (ed) (2011) *State and Constitutionalism: An African Debate on Democracy*, Southern Africa Political Economy Series (SAPES) Trust, Harare, pp. 3-26.

<sup>119</sup> *Ibid* p.19

because of the emergence of hybrid areas that are not only ‘intermestic’ but, in the case of the EU, ‘communitarian’, and thus transcend the national international dichotomy.

### **3.2 Kenya Foreign Policy Framework**

Since the end of the Cold War, the world has witnessed drastic changes in international politics and rules of diplomatic engagement. Fundamental shifts have occurred in the configuration and realignment of global power relations with the emergence of a multi-polar world order and the increasing influence of emerging economies in global affairs. Similarly, the transformation of the Organization of African Unity into the African Union has created new opportunities for Africa. The emerging governance, peace and security architecture has provided a framework that ensures a stable continent and creates an enabling environment for sustainable development. To maximize on the ensuing socio-economic development and avoid marginalization, Africa is strengthening regional integration as a tool for leveraging on continental cooperation and stability. Kenya recognizes that she is an integral part of the African Continent and acknowledges that her national interest is intrinsically linked to Africa’s stability, unity and prosperity.<sup>120</sup>

In the modern globalized world, our common humanity has become a constant element. Kenya therefore places great emphasis on cooperation, collaboration and building partnerships. Deriving from this, Kenya’s Foreign Policy orientation is geared towards improving and enhancing mutually beneficial bilateral networks and multilateral relations with other regions of the world. The relationships will

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<sup>120</sup> Ghai, Y. P., & Ghai, J. C. (2011). *Kenya's Constitution: An Instrument for Change*. Nairobi, Kenya: Katiba Institute. pp. 20-26.

ensure Kenya's national interests are guaranteed in order to secure Kenya's socio-economic priorities.

### **3.2.1 Kenya Foreign Policy Context**

Kenya's long struggle for national liberation from colonialism set a strong foundation for its foreign policy orientation. The architects of our Republic underscored the inextricable link between national independence and humanity's larger freedom, equity and the inalienable right to a shared heritage. Kenya assumed its place as a sovereign state and actor in international relations upon independence in December 1963. Since then, Kenya's foreign policy has been guided by a strong belief that our own future is inseparable from the stability and security of our environment as the basic source of national survival and prosperity. The benchmarks guiding the country's relations with the world were set by the imperative to re-align its goals at the international level to the turbulent and shifting dynamics of a divided world during the Cold War era (1945-1989). Even though Kenya's liberation struggle enhanced the country's international image and stature, paradoxically, this heroic history also risked playing into the East-West ideological divide. In order to strategically place the country in the international arena, the architects of Kenya's foreign policy charted a pragmatic approach, informed by several principles, which have stood the test of time. This approach has ensured that Kenya successfully forges mutually beneficial alliances with the West while constructively engaging the East through its policy of positive economic and political non-alignment.<sup>121</sup>

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<sup>121</sup> Ibid p.32

The phenomenon of globalization also led to emergence of an international network of social and economic systems has had both positive and negative effects in the foreign policy. The need to effectively respond to globalization necessitated changes in Kenya's foreign policy orientation. While offering new economic opportunities especially in the fields of science, technology and communication, globalization has led to competition for capital flows, shrinking market access and economic marginalization of developing economies. As the world has globalized, so have new global security threats far removed from the classical notion of inter-state conflict. Kenya has experienced the direct impact of these threats which include transnational organized crime, terrorism, piracy, drug and human trafficking, proliferation of small arms and weapons, and money laundering amongst others. This has therefore compelled Kenya to find new anchors for the conduct of its foreign relations. With international terrorism now elevated into a foremost threat to global security, combating this scourge has become a crucial agendum of Kenya's external relations and a subject of its strategic partnerships.<sup>122</sup>

Kenya recognizes the effect of environmental problems such as global climate change, the build-up of greenhouse gases, toxic chemicals, and pesticides; species extinction; deforestation; and marine degradation and poaching which continue to pose a threat to the prosperity, health, and security of global citizens. Kenya has in response elevated its environmental agenda into one of its foreign policy pillars. Kenya's current world view is also informed by a number of critical political developments and particularly protracted conflicts and the disintegration of African states which had hitherto been held together by cold war politics.

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<sup>122</sup> Wang, V. (2005). *Parliaments as a Machinery for Political System Control: The Inner Workings of Bunge, Tanzania*. In M. A. M. Salih (Ed.), *African Parliaments: Between Governance and Government* (pp. 183-199). New York: Palgrave Macmillan.

These conflicts define perhaps the most critical foreign policy transition with the emergence of peace diplomacy as a major strategic response to widespread civil wars, the implosion of the state, radicalism and other forms of extremism threatening national and regional peace, security, stability and prosperity.

The other causal factor for a major foreign policy transition has been the expansion of the space for regional and continental diplomacy. The rebirth of the African Union in 2002 and the creation of its new structures such as the AU Peace and Security presented opportunities for collective action to resolve regional conflicts and stabilize the continent as a pre-condition for shared socio-economic regeneration.<sup>123</sup> Kenya seeks a lead role in the renewed African Renaissance which underlies the current quest for a stronger Africa able to address the challenges and ensure sustainable development. This has been made more pronounced by the refocusing of the African Union from supporting liberation to spearheading Africa's development and integration.

Thuku<sup>124</sup> states that the final transition in Kenya's Foreign Policy revolves around the increasingly important role of Regional Economic Communities (RECs) as critical tools for regional integration. Kenya continues to play a lead role in fast tracking regional and continental integration so as to boost intra-African trade as part of the efforts to reduce economic marginalization of Africa in the global economy. The overarching objective is the improvement of Kenya's competitiveness for foreign direct investments and that of its export products, increase of market access and developing its attractiveness as a leading tourist destination. At the international level, Kenya seeks to diversify its economic relationships and partnerships with

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<sup>123</sup> Pan-African Parliament (2011), "Debates of the Pan-African Parliament Volume 3", Midrand, 6 October 2010.

<sup>124</sup> Thuku, W. (2012). Uproar over fat allowances given to MPs, The Standard, p. 2



increased focus on the emerging economies and economic zones. These efforts collectively have sown the seeds of Kenya's new era of economic diplomacy which seeks to promote a pragmatic approach that best illustrates commitment to strengthen relations with all countries and regions based on shared mutual interests.

### **3.3 Kenya Foreign Policy and Political Stability**

According to Herbst<sup>125</sup> Kenya's long struggle for national liberation from colonialism set a strong foundation for its foreign policy orientation. The architects of Republic underscored the inextricable link between national independence and humanity's larger freedom, equity and the inalienable right to a shared heritage. Kenya assumed its place as a sovereign state and actor in international relations upon independence in December 1963. Since then, Kenya's foreign policy has been guided by a strong belief that its own future is inseparable from the stability and security of our environment as the basic source of national survival and prosperity.<sup>126</sup> The benchmarks guiding the country's relations with the world were set by the imperative to re-align its goals at the international level to the turbulent and shifting dynamics of a divided world during the Cold War era (1945-1989). Even though Kenya's liberation struggle enhanced the country's international image and stature, paradoxically, this heroic history also risked playing into the East-West ideological divide. In order to strategically place the country in the international arena, the architects of Kenya's foreign policy charted a pragmatic approach, informed by several principles, which have stood the test of time. This approach has ensured that Kenya successfully forges mutually beneficial alliances with the West while

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<sup>125</sup> Herbst, J (2010), *States and Power in Africa: Comparative Lessons in Authority and Control*. Princeton: Princeton University Press.

<sup>126</sup> Ibid pg. 30

constructively engaging the East through its policy of positive economic and political non-alignment.

As the world has globalized, so have new global security threats far removed from the classical notion of inter-state conflict. Kenya has in response elevated its environmental agenda into one of its foreign policy pillars. Kenya's current world view is also informed by a number of critical political developments and particularly protracted conflicts and the disintegration of African states which had hitherto been held together by cold war politics. These conflicts define perhaps the most critical foreign policy transition with the emergence of peace diplomacy as a major strategic response to widespread civil wars, the implosion of the state, radicalism and other forms of extremism threatening national and regional peace, security, stability and prosperity. The other causal factor for a major foreign policy transition has been the expansion of the space for regional and continental diplomacy. Kenya seeks a lead role in the renewed African Renaissance which underlies the current quest for a stronger Africa able to address the challenges and ensure sustainable development and political stability.<sup>127</sup>

Adar states that in pursuing its national interests in the international arena, Kenya continues to enjoy a favourable international profile arising from its strategic location, sustained stability, strong political institutions, sound economic policies, dynamic environmental strategies and highly educated and skilled human resources. Other positive attributes are outstanding performance by Kenya's sports persons and the increasing involvement of Kenyans abroad in national development.<sup>128</sup> Policy

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<sup>127</sup> African Peer Review Mechanisms (APRM), country reports

<sup>128</sup> Adar, K. (2011). 'An Investigation and Analysis of the Causes of the Diplomacy of East African Community', MSc. Scholarly paper, Indiana State University pp. 22-26.

Objectives Kenya's foreign policy seeks to pursue the following national objectives: Protect Kenya's sovereignty and territorial integrity; Promote sub-regional and regional integration and co-operation; Enhance regional and global peace and security; Advance the economic prosperity of Kenya and her people; Project Kenya's image and prestige; Promote international cooperation and multilateralism; Promote and protect the interests of Kenyans abroad; and Enhance partnership with the Kenya Diaspora and descendants.

These objectives will be pursued through five key inter-linked pillars of Kenya's Foreign Policy. Guiding Principles The execution of Kenya's Foreign Policy and the conduct of her international relations are guided by the following principles: Sanctity of sovereignty and territorial integrity of the Republic of Kenya; Peaceful co-existence with neighbours and other nations; Resolution of conflicts by peaceful means; Promotion of regional integration; Respect for the equality, sovereignty and territorial integrity of states; and Respect for international norms, customs and laws.<sup>129</sup>

### **3.4 Parliament's Role in Fighting Conflict and Human Rights Violations**

According to Sabic<sup>130</sup> Parliamentarians can intervene in areas that traditional diplomats cannot venture into. Records of such activities date as far back as the late 1880s. More recently, in announcing a shift in US policy towards Cuba a few weeks after taking office, Obama welcomed the fact that a number of Congressmen visited the island, even though they insisted that they had done it on their own initiative. Similarly in August 2009 Virginia's Democratic Senator Jim Webb visited Myanmar

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<sup>129</sup> Ibid pg.34

<sup>130</sup> Sabic, H. (2008). State Collapse and Post-Conflict Development in Africa, Indiana: Purdue University Press. pp. 3

to meet with the ruling military Junta, apparently with the blessing of Washington. Other examples include the Inter-Parliamentary Union meetings that permitted the first contacts between Argentine and British parliamentarians after the 1982 Falklands/Malvinas War, those between South and North Korean parliamentary representatives, and between Palestinians and Israelis. Sabic says that several parliamentarians visited Gaza in the summer of 2008, risking their lives as the Israeli authorities had declared that they would not give them special treatment.

Herbst<sup>131</sup> points out that Parliamentary action can also complicate international crises, however well meant. Morocco prevented one of its senators from ‘marching’ on Parsley Island, an island in dispute with Spain since the near-military confrontation of 2002. The British government refused entry to radical Dutch Member of Parliament Geert Wilders in 2009, even though he had been invited to Britain by the House of Lords to show his controversial documentary on Islamic terrorism. The European Parliament (EP) is well-known for ‘meddling’ in international affairs: its 1989 declaration in support of the mujahideen against Ayatollah Khomeini’s regime, which contradicted European governments’ recognition of the Iranian revolution, is a case in point. But this is not to say that the EP and other parliaments behave irresponsibly. Euro-parliamentarians (MEPs) consistently criticize violations of human rights throughout the world.

According to Beetham<sup>132</sup> activists worldwide are well aware of the EP’s role in international affairs, and its headquarters in Brussels or Strasbourg are the venues of regular protests, mainly over human rights abuses. Parliamentarians also use the ‘power of the pen’, writing regularly in the press and contributing to other media.

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<sup>131</sup> Ibid 23

<sup>132</sup> Beetham A. (2006a) *Shaping a new Africa*, Amsterdam: KIT Publishers

Most academics and practitioners agree that parliaments and parliamentarians can play a role in trying to prevent and solve conflict situations. Thus at a June 2008 conference on the 'European Neighbourhood Policy East' in Brussels, then EP President, Hans-Gert Pöttering, stated that as 'parliamentarians, we are all bound to the idea of pursuing dialogue in order to solve problems.'<sup>133</sup>

Panesbianco<sup>134</sup> states that the Great Lake Parliamentary Forum on Peace, also known as the Amani Forum, tries to find peaceful resolution to conflicts in Africa, one of the most troubled areas in the world. The Canada-based Parliamentary Centre has organized numerous meetings between parliamentarians on the grounds that executive action is insufficient.

### **3.5 Parliament's Electoral Monitoring and Political Stability**

To include parliamentarians or officials from parliamentary secretariats in electoral monitoring missions is considered an advantage.<sup>135</sup> Not only do they have parliamentary experience, but they demonstrate how parliamentarians can play non-traditional democratic accountability roles. According to Angelo<sup>136</sup> Parliamentarians from well-established democracies can share 'best practice' experience with their counterparts from less developed democracies. The parliamentarization of international relations is often perceived as both a result and a cause of democratization. Be it through 'friendship groups', occasional visits, regular meetings or simply by participating in different regional or international parliamentary meetings, parliamentarians who come from 'less' democratic or emerging

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<sup>133</sup> European Parliament Press Office 2008

<sup>134</sup> Ibid p.22

<sup>135</sup> Ibid p.44

<sup>136</sup> Angelo Panesbianco (2008): *Parties: Organization and Power*, Translated by Marc Silver, Cambridge, Cambridge University Press. pp. 3-6.

democracies can gain from ‘rubbing shoulders’ with their counterparts from well-established democracies. National and European members of parliament regularly refer to this. But others disagree; it is argued that as long as not all parliamentary actors involved originate from truly democratic states, successful democratization will remain elusive.<sup>137</sup>

It is often claimed that parliamentarians and parliaments act as moral beacons in a world of realpolitik. As Cutler<sup>138</sup> points out, international parliamentary bodies ‘establish ongoing trans governmental relationships that restrain old power politics’. Thus parliaments engage in monitoring activities that transcend their budgetary control functions, including investigations that fall outside the traditional range of power politics activities. Regular committees or special commissions allow parliamentarians to act as ‘moral tribunes’ in international affairs. Cases in point include the 2006 EP investigation of the so-called ‘CIA flights in Europe’ (a temporary committee was established to look into the alleged use of European countries by the CIA for the illegal transport of prisoners), the 2008 French Assembly Report on Africa, which heavily criticized French foreign policy *Le Monde*<sup>139</sup>, and the 2009 UK House of Commons Foreign Affairs Committee Scrutiny of Arms Exports. But there are limits to what parliamentary diplomacy can achieve.<sup>140</sup> One of the key problems is availability of time and expertise. The effectiveness of parliaments is limited by membership (dis-)continuities. Funding presents problems too. For these and other reasons, it has been claimed that parliamentary diplomacy is nothing more than ‘parliamentary tourism’.

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<sup>137</sup> Ibid pg. 29

<sup>138</sup> Ibid 23

<sup>139</sup> *Le Monde*, (2008), Power sharing and the implications for state restructuring in Africa, Indiana: Purdue University Press. pp. 3-4.

<sup>140</sup> Sabic, H. (2008). *State Collapse and Post-Conflict Development in Africa*, Indiana: Purdue University Press (vol. 3, pp.12)

### 3.6 Parliament's Electoral Monitoring and Peace Building Kenya

According to Lijphart<sup>141</sup> Kenyan Parliament addressed country's worst post-election violence in 2008 which led to property destruction and claimed 1300 lives. There was consensus that inter-ethnic conflicts were universal phenomena that was neither new to Kenya nor to other democracies. There was convergence that Parliamentarians have the capacity to play a fundamental role in stemming conflicts given their unique roles as custodians, shapers and mobilizers of public opinion. This places enormous responsibility upon them and deepens their mandate, especially in conflict resolution and restoration of peace.<sup>142</sup>

Monde<sup>143</sup> state that the Kenya Parliament received a worthy accomplishment by playing a dynamic role of passing several laws to bring about peace and political stability during the 2008 postelection violence. Parliament's resolve to commentator and legitimize radical clearances into the structure demonstrated that the old-style role of Parliament is developing, and that its volume to concretize thoughts, rally widespread provision and crack them into exercise remains the responsibility of modern Governments.<sup>144</sup> Parliamentarians witnessed that the being of trustworthy self-governing organizations is essential to the attainment and sustainability of durable concord and political stability.

According to Ellen<sup>145</sup> the supportive role of the international community and whether their intervention was interest-driven was also addressed. Hon. James Orengo detailed

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<sup>141</sup> Arend Lijphart, (2009): Patterns of Democracy; *Daedalus*, (Vol. 95, p. 862-915)

<sup>142</sup> Ibid pg 39

<sup>143</sup> Monde, (2008), Power sharing and the implications for state restructuring in Africa, Indiana: Purdue University Press

<sup>144</sup> Monde, (2008), Power sharing and the implications for state restructuring in Africa, Indiana: Purdue University Press pp. 24-26.

<sup>145</sup> Ellen G. (2009). *Analyzing Politics: An Introduction to Political Science, (4th Edition)*. Belmont: Wadsworth (pp. 34)

how in Kenya's case, the realization by the principal political leaders, who both claimed victory, that the problem of political contention had gone beyond an election dispute prompted the principals to quickly agree to international intervention to resolve the problem since the General elections were held in Kenya on 4 March 2013, electing the President, Senators, County Governors, Members of Parliament for the 290 electoral constituencies, Civic Wards and Women County Representatives.<sup>146</sup> They were the first elections held under the new constitution, which was passed during the 2010 referendum. They were the first general elections run by Kenya's Independent Electoral and Boundaries Commission (IEBC).

### **3.6.1 The Politics behind Kenya's Electoral Violence**

Despite Kenya's economic strength, leadership and relative stability within its region, the disputed election was only the latest catalyst in a long history of unaddressed grievances. While the extent and speed of the 2007–2008 crisis were uniquely devastating, the deadly conflict perpetuated a pattern of violence that has repeatedly marred Kenya's national elections. Issues including widespread impunity, high rates of youth unemployment and lack of land reform have consistently plagued Kenya's citizens. Years of ethnic favouritism have led to striking inequality among Kenya's tribal groups. Moreover, decades of corruption have left citizens frustrated with unfulfilled promises and disillusioned by the political process. Following a history of dictatorship and largely one-party rule, the 2002 election of Kenya's third and current president, Mwai Kibaki, was initially hailed as a sign of true change. By the time

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<sup>146</sup> Sihanya B. (1963-2010:). "Reconstructing the Kenyan Constitution and State, lessons from German and American constitutionalism," *Law Society of Kenya Journal* Vol. 6 No. 1, pp. 1-35



Kibaki's term neared its end in late 2007, however, many Kenyans felt that little had been done to heal the ailments of the past.<sup>147</sup>

### **3.6.2 Power-Sharing In the Context of Electoral Theft**

Ong'ayo<sup>148</sup> states that what has been offered or gaining ground as the middle way, out of the political stalemate with regards to electoral thieving in Africa is the now famous phrase of power sharing. This view brings to question, the role of the international community, in the political processes in Africa and their potential for enhancing stability or exacerbating instability. While the preservation of some countries affected by violence has motivated the international community to act quickly to stop these countries from sliding into an all-out civil war the measures adopted, especially the recent trend of prescribing a power-sharing arrangement between a winning opposition candidate and an incumbent electoral thieving president as was the case in Kenya and now in Zimbabwe, fails to address the fundamental issues around political stability in Africa.

Secondly, Angelo<sup>149</sup> says that the international community response has been incoherent and their language, quite contradictory. The situation in Darfur has led to millions of deaths; the same applies to Congo and a number of hot spots in Africa. What was therefore so special about Kenya that makes it that different from Darfur or Congo? What about Zimbabwe? While the speedy response in the case of Kenya helped slow down the country from its destructive path, the consequence of the adopted measures, continue to exacerbate the drift of African continent to the brink of political and economic collapse. The political changes taking place in Africa are often

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<sup>147</sup> Ibid pg 32

<sup>148</sup> Ibid p.34

<sup>149</sup> Angelo Panesbianco (2008): *Parties: Organization and Power*, Translated by Marc Silver, Cambridge, Cambridge University Press Vol. 1 No. 2, pp. 1-3

within the context of external interference. Hardly, do we see a home grown solution to Africa's problems, a question whose answer lies in the African leadership problem.<sup>150</sup>

Ong'ayo<sup>151</sup> points out that even if power sharing as a formula is the most expedient response in post-electoral violence situations, for instance, these deals also fall short of addressing the very factors that underpinned the post-election violence, namely, the decades of political and economic marginalization. What is observed is a continuation of the old order, where dictators moulded by the West re-emerge at the expense of stability and basic fundamental rights. Instead, we see previous "good Boys" turning out to be the most authoritarian and brutal towards their one people as has been the case in Zimbabwe and Uganda. These tendencies and the nature of endeavors to cling to power in Africa, the brutality, with which African leaders impose their authority on their people, continue to drive many people into exile. As a result of the conflicts, bad governance and poor economic conditions Mohamoud, states that large numbers flee their countries, a factor that is currently shaping the migration debate, especially in the western countries, but also in Africa with regards to brain drain.<sup>152</sup>

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<sup>150</sup> Le Monde, (2008), Power sharing and the implications in Africa, Indiana: Purdue University Press., pp. 1-35

<sup>151</sup> Ong'ayo, A.O. (2008) Power sharing and the implications for state restructuring in Kenya; Third World Resurgence, Issue No 211 (March, 2008)

<sup>152</sup> Mohamoud Abdullah, A. (2005) Reversing Brain Drain in Africa, harnessing the Intellectual capital of the Diaspora for Knowledge and Development in Africa, Amsterdam: Sahan

### **3.7 Parliament's Legislative Roles and Political Stability**

Since independence in 1963, Kenya has maintained remarkable stability despite changes in its political system and crises in neighbouring countries.<sup>153</sup> Particularly since the re-emergence of multiparty democracy, Kenyans have enjoyed an increased degree of freedom. A cross-party parliamentary legislative reform initiative in the fall of 1997 revised some oppressive laws inherited from the colonial era that had been used to limit freedom of speech and assembly. This improved public freedoms and contributed to generally credible national elections in December 1997. In December 2002, Kenya held democratic and open elections and elected Mwai Kibaki as their new president. As stated by Ong'ayo, the elections, which were judged free and fair by local and international observers, marked an important turning point in Kenya's democratic evolution. President Kibaki campaigned on a policy of generating economic growth, improving education, combating corruption, and implementing a new constitution, the draft of which was produced by Professor Ghai under the Moi regime. Considerable success has been achieved in the first two policy areas, the constitutional process had become mired and the fight against corruption has been a disaster.<sup>154</sup>

According to Kitonga<sup>155</sup> the role of legislating is key in creating a framework for addressing historical injustices, political stability and sustainable peace. However, Members do not yet perform this role perfectly. To stem future reversals, participants concurred that the following are imperative: the focused implementation of Kenya's new constitution, the enhancement of multi-stakeholder fora, the entrenchment of a

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<sup>153</sup> Rukare (2012), "The New African Union and Its Constitutive Act", *The American Journal of International Law*, Vol. 3 No. 2, pp. 1-4

<sup>154</sup> *Ibid* p.28

<sup>155</sup> Afrifa K. Kitonga (2009) *Democratic Theory and Practice in Africa*, Portsmouth, NH, USA & Heinemann, London. Vol. 2 pp. 1

culture of constitutionalism and the promotion of continuous peace building processes, even in the absence of potential conflicts. Workshop A primarily addressed Kenya's post-election violence in 2008 which led to property destruction and claimed 1300 lives. There was consensus that inter-ethnic conflicts were universal phenomena that was neither new to Kenya nor to other democracies. The Kenya Legislature earned an admirable achievement by playing a lively role of passing numerous laws to bring about peace and political stability during the 2008 post-election violence. Legislature's resolve to anchor and legitimize political settlements into the constitution proved that the traditional role of Legislature is evolving, and that its capacity to concretize ideas mobilize popular support and turn them into practice remains the duty of modern Legislatures. Parliamentarians observed that the existence of credible democratic institutions is pivotal to the achievement and sustainability of durable peace and political stability.<sup>156</sup>

### 3.8 Conclusion

According to Mashele<sup>157</sup> parliament function is the eyes of the people in government that watch and monitor the activities of the executive arm and its agencies in the implementation of laws, programmes and policies meant to serve the collective interest of the electorates. It dictates waste, inefficiency, ineffectiveness, corruption, mismanagement of public resources, etc. Its relevance in a democratic governance need not be overemphasized.<sup>158</sup> Oversight function in parliament is essentially valuable in ensuring that the intent of the legislature in legislating laws that will improve the living standard of the poor is reflected in the performance of the

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<sup>156</sup> Ibid p.35

<sup>157</sup> Mashele L. (2004). "*The Pan-African Parliament. A Plenary of Parliamentarians*", African Security Review, Vol 13, No 4, pp 73-82.

<sup>158</sup> Pan-African Parliament (2010), "Debates of the Pan-African Parliament Volume 3", Midrand, 6 October 2010.

executive functions. As important as its role in government, it must endeavor to conduct its oversight functions within the confine of the law that established the National Assembly hence ensuring political stability.

## **CHAPTER FOUR**

### **THE ROLE OF 'PARLIAMENTARY DIPLOMACY' IN MAINTAINING POLITICAL STABILITY IN KENYA**

#### **4.0 Introduction**

This chapter presents analysis and findings of the study as set out in the research methodology. The study findings are presented on the role 'parliamentary diplomacy' in maintaining political stability: with specific reference to a case of Kenya 2000-2014. The data was gathered using interviews. The instruments were guided and designed in line with the objectives of the study.

#### **4.1 Political Stability: A Definition**

According to the findings political stability refers to where a nation's politics fit on a spectrum between those two extremes.<sup>159</sup> Additionally, Nyanga indicated that a nation that is constantly having political coups or revolutions or civil wars would be said to have very low political stability, since there would be very low levels of respect for the existing political order, constitution, and government institutions by key political players like politicians, judges, and army officers. Rai points out that one could not take it for granted that, say, the president would be in power (or perhaps even alive) within a year, regardless of how long he was supposed to rule, simply because the political culture would be so chaotic and disrespectful basically any

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<sup>159</sup> Nyanga B. A member of defence and foreign relations interviewed on 12<sup>th</sup> Sep 2015

assumption, custom, or convention would have a high likelihood of being ignored or undermined for any number of reasons. <sup>160</sup>

According to Wafula<sup>161</sup> Political stability is the ability of a people's government to share, access, or compete for power through nonviolent political processes and to enjoy the collective benefits and services of the state. Wafula states that this rests on four necessary conditions to achieve: provision of essential services, stewardship of state resources, civic participation and empowerment, and political moderation and accountability. Additionally, Nyanga says that political stability refers to an end state where the state provides essential services and serves as a steward of state resources. <sup>162</sup> According to Nyanga government officials are held accountable through political and legal processes. The population can participate in governance through civil society organizations, an independent media, and political parties. Stable government is the mechanism through which the basic human needs of the population are largely met, respect for minority rights is assured, conflicts are managed peacefully through inclusive political processes, and competition for power occurs non-violently. National and sub-nation government institutions may work with a range of non-state partners to provide some of the government functions. "

The study further established a nation with high political stability would be one where politics was extremely predictable.<sup>163</sup> For example, sane says that an extremely oppressive totalitarian dictatorship that had been ruled by the same family for ten generations. There'd be no question about who was running the show, or who would be running the show in the future, or whose orders everyone was going to obey in a

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<sup>160</sup> Rai G and Sane I. Members of defence and foreign relations interviewed on 14<sup>th</sup> Sep 2015

<sup>161</sup> Wafula D.A member of defence and foreign relations interviewed on 12<sup>nd</sup> Sep 2015

<sup>162</sup> Nyanga B.A member of defence and foreign relations interviewed on 15<sup>th</sup> Sep 2015

<sup>163</sup> Sane I. A Member of defence and foreign relations interviewed on 14<sup>th</sup> Sep 2015

system like that. According to Joseph a country that's been a safe and peaceful democracy for more than a century like say the United States, Canada, or Sweden would be very stable as well, since their history would help foster enormous public reverence for respecting the traditions of elections and resolving political disputes within the well-understood rules and precedence's of the constitution.<sup>164</sup>

According to the findings totalitarian governments are probably the most stable, followed by established democracies, then mid-to-long term dictatorships, then countries that have only recently embraced either democracy or dictatorship, then so-called "failed states" that have been wracked by years of internal political violence or severe economic/natural disaster.<sup>165</sup> The finding established that every government has the seeds of some instability. Sometimes a totalitarian dictatorship doesn't have a clear succession plan. Sometimes a long established democracy is confronted with a "constitutional crisis" that introduces a problem for which there is no understood tradition for addressing. And sometimes nations have their stability threatened by other countries who hope provoking war could help address their own stability deficit.

#### **4.1.1 Political stability in Kenya**

On Political stability in Kenya the findings established that until late 2007, Kenya was considered one of the most stable countries in Africa. It has functioned as East Africa's financial and communications hub, the headquarters of many international nongovernmental organizations, and a magnet for tourism.<sup>166</sup> Wafula further stated that analysts looked favourably upon its healthy and broad-based economic expansion under President Mwai Kibaki, which stood in marked contrast to the growth of

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<sup>164</sup> Joseph L. A member of defence and foreign relations interviewed on 15<sup>th</sup> Sep 2015

<sup>165</sup> Midiwo J. A member of defence and foreign relations interviewed on 15<sup>th</sup> Sep 2015

<sup>166</sup> Wafula D.A member of defence and foreign relations interviewed on 12<sup>nd</sup> Sep 2015



countries such as Angola and Equatorial Guinea that depend on the export of a single commodity oil. Yet disputed elections in late December 2007 spurred outbreaks of violence across the country that killed more than six-hundred people. That prompted some fears that Kenya would split on tribal lines and descend into prolonged unrest. Experts say such a scenario is unlikely, but also suggest that prior depictions of Kenya's stability were premature. According to Gathecha, Kenya is a young democracy, they say, and its weak institutions not inherent ethnic divisions are at the root of the current political crisis.<sup>167</sup>

## **4.2 Problems challenging Kenyan political stability**

The findings indicated the problems challenging Kenyan political life are numerous, and some of them are cultural in the sense that they are related to cherished practices inherited from indigenous cultures. It could be argued that such problems do not only result from the imposition of European colonial rule with its concomitant introduction of European cultural values and institutions. Rather, some of the problems are related to the Kenyan capacity to grapple with the changing conditions of life, especially the challenge to integrate ethnic identities into the structure of nation-state.

### **4.2.1 Ethno-Political Competition, Discrimination, and Violence**

According to the findings Kenya is a multi-ethnic society, and many communities have lived in harmony for many years. According to Rai and Sane in recent years, however, the dominant ethnic groups have been on the forefront in fighting for political power.<sup>168</sup> This situation has resulted into fighting to control the state. The relatively less dominant communities have been playing the card of opportunism.

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<sup>167</sup> Gathecha A. A member of defence and foreign relations interviewed on 14<sup>th</sup> Sep 2015

<sup>168</sup> Ibid p.67

Many ethnic groups supported the armed struggle for independence in hope that they could regain their stolen lands. This expectation did not become reality. The situation has fomented anger, resentment, lust for revenge, and aggressive competitiveness that has overlooked the common good of the entire country. As indicated by Busienei frustration among the poor, both in urban and rural areas, has created a growing tendency to use violence as a viable means to correct the situation. When violent reactions emerge, under the influence of ethno-political ideologies, tend to take the form of ethnocentrism, the ideology that animates the competition between ethnic groups.<sup>169</sup>

The study also established that ethno-political competition, which has been alive since independence, has finally degenerated into ethno-political competition, discrimination, and violence. Ever since the flawed election triggered a wave of ethno-political violence "many people have been violently driven from their homes and many are now resettling in ethnically homogenous zones. Even some of the packed slums in certain cities have split along ethnic lines."<sup>170</sup> According to Rasso ethnic demarcation and regionalism, as promoted by ethnic leaders, revolve around the practice of ethnic discrimination. Additionally, the findings indicated that the phenomenon of ethnic discrimination comes into play when each region is identified with a certain ethnic group, and whenever political misunderstandings emerge those who are identified as foreigners are always forced to go to their ancestral land. Joseph points out that the political crisis, under the influence of ethnic rivalry and violence, has recently killed hundreds of people and destroyed property, including burning of houses. Such crisis has erupted due to the lack of peaceful means to address

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<sup>169</sup> Bussieni E. Members of defence and foreign relations interviewed on 11<sup>th</sup> Sep 2015

<sup>170</sup> Rasso A. Members of defence and foreign relations interviewed on 12<sup>th</sup> Sep 2015

grievances. The condition has been aggravated by the lack of the rule of law and constitutional reform since independence.<sup>171</sup>

According to Wanjallah<sup>172</sup> ethno-political violence is a deliberate political strategy by desperate groups intended to effect change in the political system that marginalizes them. The situation has emerged because of unequal distribution of land and other resources, unabated corruption at the national level, extreme poverty in urban slums and squatters, unemployment, and irresponsible leadership. The situation is combined with the political unwillingness to address structural injustice. The inability to go beyond the ethnic framework has intensified the climate of political crisis. The country's leadership is responsible, not just the political leadership but also the cultural and religious leaders.<sup>173</sup>

#### **4.2.2 Competing Identities, Loyalties, and Interests**

Based on the findings ethnic identity, as applied to Africa, refers to a group of people sharing a common ancestry, language, symbol, and territory.<sup>174</sup> Ghatti further explains that ethnic identity derives its foundation from combined memories of the past and common expectation. Many people have lived and continue to lead their lives within the framework of an ethnic group. When a person is in difficulties, it is normal for this person to call for help from the ethnic community to which he (she) belongs. It was also established that in urban areas ethnic identity is appealed to when people are in need of financial support and political support. For many people ethnic identity stands as a symbol of communal solidarity and security. Ethnic identity, be it in rural or

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<sup>171</sup> Ibid p.69

<sup>172</sup> Wanjallah J. A member of defence and foreign relations interviewed on 14<sup>th</sup> Sep 2015

<sup>173</sup> Chao D. A member of defence and foreign relations interviewed on 13<sup>th</sup> Sep 2015

<sup>174</sup> Ghatti D. A member of defence and foreign relations interviewed on 11<sup>th</sup> Sep 2015

urban areas, remains a powerful force to reckon with, although it varies like temperature, from time to time, depending on prevailing political circumstances. It is a fluid concept, meaning different things at different times and contexts.

The findings further revealed that the nature and meaning of ethnic identity are difficult to grasp unless related to the changing conditions of life.<sup>175</sup> According to these key informants one may continue using old answers for new questions if he (she) does not pay attention to such connection. In addition one has to consider cultural, socioeconomic, and political changes that have been taking place and how they have continued to fashion ethnic identities, loyalties, and interests. Ethnic identities, from the African perspective, assume a triple history: pre-colonial, colonial, and post-colonial. In the pre-colonial period, ethnic groups were more rural and homogeneous, and there was less competition between them for the scarce economic resources than it is today.

According to kiuna in the pre-colonial period, there was a recognized art of living in a reasonably peaceful way without a state structure in the way it is understood today. Small ethnic groups, during the colonial period, were forced to merge.<sup>176</sup> Kiuna says that because of the ethnic competition for the scarce economic resources and political power, each ethnic group tends to fight to have a president from their group. For them, the president will loot the state for his ethnic group. In other words, the president is not for the state, but his ethnic group. This is the root cause of the struggle to control the state. It was also established that ethnic strategies are often connected with the resources of modern economy, such as in gaining employment, education, securing loans, and seizing appointments for lucrative offices. The competition for the

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<sup>175</sup> Sane I., kiuna J, Ghatti D, Gathecha A. Members of defence and foreign relations on 13<sup>th</sup> Sep 2015

<sup>176</sup> kiuna J. Members of defence and foreign relations interviewed on 12<sup>th</sup> Sep 2015

limited economic resources within the state today, to a certain extent, has changed the meaning of ethnic identities.

### **4.3 Political Economy of Kenya: Fragility and the Post-2007 Election**

On political economy of Kenya fragility and the post-2007 election the finding established that the crisis was not solely a reaction to the dispute over the election result, but was rooted in long-term, foundational issues that had remained unaddressed since Kenya gained independence in 1963.<sup>177</sup> Kenya's deeply neo-patrimonial politics is one of the most significant issues. Powerful political elites have established support using state resources since independence, causing widespread grievances over inequalities and long-standing perceptions of exclusion in the distribution of resources. Mwendwa and keynan pointed out that this patronage had weakened state institutions over many years and, by the time of the crisis, the Judiciary and Parliament had lost their autonomy and were largely under the control and influence of the executive.<sup>178</sup> The findings also revealed that a highly centralised presidency was also a dominant feature. Trust and confidence in key institutions declined further in late 2005 after the executive weakened the much anticipated draft constitution. Kenyans rejected this draft by referendum, leaving the country with its flawed and much amended constitution dating from the colonial era. These long-term political trends created the conditions for political instability.

Based on the findings the prevalence of weak and personalized institutions sparked many contestations. In 2007, those institutions that were crucial for carrying out and overseeing the political transition were perceived as 'partisan' and 'tied to the executive representing the president's ethnic community rather than separate from it'.<sup>179</sup> Ethnic and regional inequalities infiltrated not only Kenyan politics but also the society more broadly. From 2002–2007, inter-ethnic rivalry and bitterness grew as the

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<sup>177</sup> Mumesi E, Onyonka A. A member of defence and foreign relations interviewed on 11<sup>th</sup> Sep 2015

<sup>178</sup> Mwendwa N and keynan A. Members of defence and foreign relations on 12<sup>th</sup> Sep 2015

<sup>179</sup> Onyonka A. A member of defence and foreign relations interviewed on 13<sup>th</sup> Sep 2015

presidency rewarded fellow Kikuyus and the 'culturally related Meru and Embu communities' with power and authority at the expense of other communities. Kikuyus held 'a disproportionate number of positions in the civil service', and a small group of Kikuyu and Meru ministers, known as the 'Mount Kenya Mafia', held an overwhelming proportion of power controlling the 'key government departments of finance, defence, internal security, justice, and information'.<sup>180</sup>

According to the findings Onyonka although the economy grew considerably, with the growth rate rising from about 1.0 per cent in 2003 to about 7.0 per cent in 2007, inequalities blinded many to this recovery. Resentment grew amongst those outside of Kibaki's favour amidst deepening perceptions that the 'Kikuyu ran the country to serve themselves'. This ethnicisation of politics increased the conditions for instability, feeding perceptions that the outcome of the elections would impact strongly on issues of inclusion or exclusion from the centre of state power and resources.<sup>181</sup>

The state's gradual but unquestionable loss of control and monopoly over violence in the lead up to the 2007 election also fed into the growing conditions for instability. Extra-state violence was institutionalized through many parts of Kenya during the reign of President Moi and, later, President Kibaki. Youth gangs—often used by politicians to control and kill supporters of the opposition slowly took on a life and form of their own and the state lost control over many of them. They began to link up into a network that reached out not only across the cities but across many parts of Kenya's countryside, acting as what Duffield identifies as a 'shadow state'. Politicians and business elites increasingly employed their own security squads or

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<sup>180</sup> keynan A. Members of defence and foreign relations on 12<sup>th</sup> Sep 2015

<sup>181</sup> Onyonka R. A member of defence and foreign relations interviewed on 11<sup>th</sup> Sep

private security. As the 2007 elections approached, evidence of extra-judicial killings increased and a dangerous culture of violence gripped Kenya. The features of Kenya's political economy show that the state's legitimacy was in jeopardy. By the end of 2007, state-society relations were very fragile, while the failings of security and justice institutions left large segments of the population vulnerable. It was also noted that the combination of historically poor governance and weak institutions, entrenched politics of exclusion and patronage, ethnicisation of Kenyan society established in the fragile context and, then, the highly disputed election, proved to be the spark that lit the tinderbox.

#### **4.4 Parliament Legislature and political stability under Devolved Government**

According to the findings<sup>182</sup> electoral competition in Kenya has been marred with inter-ethnic violence implicating both the state and political elites from the dominant ethnic groups. Poverty, wealth disparities and real or perceived marginalization have historically compounded the notions of "otherness". Considering that since the 1990s, intra-state conflicts account for up to 94% of conflicts around the world reducing the impact of identity politics has increasingly become critical to peace building in Kenya as well.<sup>183</sup> Gitari states that the devolution of government in Kenya as laid down in the constitution grants significant autonomy to the counties in terms of executive power, especially on functions that often cause inter-group conflict such as cultural preservation and local development planning.<sup>184</sup> The regions have also been accorded identical relationship with the centre an important aspect of federalism which eliminates perceptions of the central government's bias towards certain regions or

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<sup>182</sup> Wamalwa C. a member of defence and foreign relations on 13<sup>rd</sup> Sep 2015

<sup>183</sup> Gitari J and onyacha J. members of defence and foreign relations on 14<sup>th</sup> Sep

<sup>184</sup> keynan A. Members of defence and foreign relations on 12<sup>th</sup> Sep 2015



groups. The findings further indicated that the new system provides an opportunity for improved citizen involvement in decision-making and their innovative regional economic productivity. It also gives attention to traditionally marginalized groups. It is hoped that, gradually, competition to control state power will cease to be a zero-sum game and there will be a net reduction of inequality while would markedly transform public goods and services provision. In so doing, devolution in Kenya is expected to substantially address the causes of inter-ethnic conflicts.

Regionally, stability and peace in Kenya is intricately linked with other countries in the Horn as it shares several trans-border ethnic groups with its neighboring countries. Reduction in inter-ethnic conflicts and the attendant long-term stability is critical for its close neighbours such as Somalia and South Sudan. In addition, because other countries around the Horn are also currently involved in experiments with federalism, one cannot rule out possible cross-fertilization, exploiting the existing regional linkages.<sup>185</sup>

#### **4.5 Foreign Policy Definition**

According to the key informants<sup>186</sup> a country's foreign policy, also called foreign relations policy, consists of self-interest strategies chosen by the state to safeguard its national interests and to achieve goals within its international relations milieu. The approaches are strategically employed to interact with other countries.<sup>187</sup> The study of such strategies is called foreign policy analysis. In recent times, due to the deepening level of globalization and transnational activities, the states will also have to interact with non-state actors. The aforementioned interaction is evaluated and monitored in

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<sup>185</sup> Mohammed A. a member of defence and foreign relations on 9<sup>th</sup> Sep 2015

<sup>186</sup> Wamunyinyi A. Members of defence and foreign relations on 12<sup>th</sup> Sep 2015

<sup>187</sup> Ibid p.70

attempts to maximize benefits of multilateral international cooperation. Since the national interests are paramount, foreign policies are designed by the government through high-level decision making processes. National interest's accomplishment can occur as a result of peaceful cooperation with other nations, or through exploitation.<sup>188</sup> Usually, creating foreign policy is the job of the head of government and the foreign minister (or equivalent). In some countries the legislature also has considerable effects. Foreign policies of countries have varying rates of change and scopes of intent, which can be affected by factors that change the perceived national interests or even affect the stability of the country itself. The foreign policy of one country can have a profound and lasting impact on many other countries and on the course of international relations as a whole, such as the Monroe Doctrine conflicting with the mercantilist policies of 19th century European countries and the goals of independence of newly formed Central American and South American countries.<sup>189</sup>

#### **4.6 Fundamentals of Kenya's Foreign Policy in relation to political stability**

According to the study findings<sup>190</sup> Kenya's foreign policy is guided and driven by a vision of 'a peaceful and prosperous Kenya effectively contributing to the realization of a stable continent and better international understanding'. Its mission is 'to advance the interests of Kenya through innovative diplomacy'. The policy is driven by national values and aspirations of the Kenyan people, which include: Unity in Diversity; Honour and Patriotism; Peace and Liberty; Justice and Equity; Quest for Prosperity; and the Harambee spirit (pulling together). The guiding principles of the policy are: Peaceful co-existence with neighbours and other nations; Resolution of conflicts by peaceful means; Promotion of regionalism;

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<sup>188</sup> Gathecha A. a member of defence and foreign relations on 14<sup>th</sup> Aug

<sup>189</sup> soipan R. Member of defence and foreign relations on 10<sup>th</sup> Sep 2015

<sup>190</sup> Mohammed A. Member of defence and foreign relations on 9<sup>th</sup> Sep 2015

Respect for the equality, sovereignty and territorial integrity of states; Respect for international norms, customs and law; Adherence to the principle of non-alignment; and Justice and equity in the conduct of international relations. The conduct of Kenya's foreign relations is guided by a diversity of sources, including official documents and pronouncements. <sup>191</sup>

These include: The Constitution of the Republic of Kenya (1963); The Sessional Paper No. 10/1965 on African Socialism and its Application to Planning in Kenya; The Sessional Paper No. 1/1986 on Economic Management for Renewed Growth; Manifestos of the ruling parties; The Economic Recovery Strategy for Wealth and Employment Creation (2003-2007); National Development Plans; Kenya Vision 2030; and Executive Pronouncements and Circulars. Kenya's foreign policy will pursue the following national objectives: Protect Kenya's sovereignty and territorial integrity; Promote sub-regional and regional integration and cooperation; Enhance regional peace and security; Advance the economic prosperity of Kenya and her people; Project Kenya's image and prestige; Promote international cooperation and multilateralism; Promote and protect the interests of Kenyans abroad; and Enhance partnership with the Kenyan Diaspora. <sup>192</sup>

#### **4.6.1 Kenya's foreign policy and political moderation**

The findings<sup>193</sup> reveal that Kenya's foreign policy is best seen in terms of its political moderation and of its continuing reliance on the Western world. Its most significant international affiliations are with the East African Community, the Organization of African Unity and the Commonwealth of Nations. Kenya, Uganda and Tanzania have

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<sup>191</sup> Ibid p.72

<sup>192</sup> Ghatti and Gathecha A. Members of defence and foreign relations on 13<sup>th</sup> Sep 2015

<sup>193</sup> Pkosing D a member of defence and foreign relations on 8<sup>th</sup> Sep 2015

made two attempts to unite in a regional organization since they gained independence. The findings indicate that in each case, the nation's sought a loose federation underpinned by an economic common market.<sup>194</sup> In 1961, the three countries formed the East African Common Services Organization (EACSO), in which a shared and centralized administration was to provide services, including transportation, communication, tax collection, scientific research, social services and university education. The EACSO charter was also to create a common currency, a common appellate court, and a common market in which goods and labor could circulate freely. These were to be directed by a central legislative assembly. By 1965, the EACSO began to come apart due to growing tendencies toward nationalism and diverging economic and political policies. In 1967, a new organization was founded under the rubric of the East African Community (EAC), established under the Treaty for East African Cooperation. This time, Tanzania's move toward socialism and Uganda's national misfortunes under the brutal regime of Idi Amin led to the dissolution of the cooperative effort. By 1977, the community was inoperative and by 1983, it was formally dissolved. Relations among the countries improved when the community's assets were redistributed and when relations with Tanzania improved in the wake of the agreement. But new tensions arose in the late 1980's when Uganda accused Kenya of supporting opponents of Uganda's government and when Kenya responded by alleging that Uganda had conducted incursions into Kenyan territory.

According to the findings<sup>195</sup> Kenya's relations with its neighbors to the north have been far less harmonious. North-eastern Kenya has been a source of conflict because Somalia has traditional claims on the territory; a large ethnic Somali population has

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<sup>194</sup> An Interview with Gathecha A. A member of defence and foreign relations on 11<sup>th</sup> sep 2015

<sup>195</sup> Gethenji N. A member of defence and foreign relations on 11<sup>th</sup> sep 2015

also led to instability. For four years, Somali guerrillas known as shift as waged a campaign against the Kenyan police and army through incursions and by means of the Voice of Somali radio based in Mogadishu. Gethenji argues that this tense predicament was eased when the Somali government changed, but it revived when Somali-Ethiopian warfare once again placed the area in contention after Kenya supported Ethiopia in the Ogaden war. The predicament was exacerbated when Kenya's relations with Arab nations worsened after Kenya seized an Egyptian plane transporting arms to the Somali forces. Tensions have since died down; reflecting this, President Moi made an unprecedented visit to Mogadishu in 1984 to negotiate border claims and promote trade cooperation

The findings further revealed that Kenya's most significant ally in the West is Great Britain.<sup>196</sup> The two nations have maintained uninterrupted friendly relations since independence. Britain remains Kenya's principal trading partner, its chief source of economic and military assistance, and its major provider of private investment capital. The British government has traditionally practiced "quiet diplomacy" with Kenya, a policy it considers to bring about the greatest influence on Kenya. Relations with the United States, which were uneasy during Oginga Odinga's ascendancy, have improved since Odinga's fall. Kenya and the US signed an agreement to permit the American military to use Kenyan sea and air bases in exchange for economic and military assistance. Wamunyinyi and Gethenji argues that the US presence in Kenya now consists of over 5,000 American citizens. An active USAID and Peace Corps program in Kenya has further increased this presence, as have growing American business interests. Over 125 US firms are represented in Kenya, bringing in an investment of over \$200 million. Past relations with the Soviet Union and China, by

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<sup>196</sup> Wamunyinyi W and Gethenji N. An interview with a member of the committee on 21<sup>st</sup> Sep 2015

contrast, have been cool and tentative, and have been marred by a number of diplomatic incidents. Kenya joined the United Nations at Independence in 1963, and is presently a member of 15 UN organizations and 22 other international organizations.<sup>197</sup>

#### **4.7 Pillars of Kenya's Foreign Policy in relation to political stability**

According to the findings Kenya's Foreign Policy rests on five interlinked pillars: Peace diplomacy pillar; Economic diplomacy pillar; Diaspora diplomacy pillar, Environment diplomacy pillar and Cultural diplomacy pillar.

##### **4.7.1 Peace Diplomacy Pillar**

On Peace diplomacy pillar the findings established that Underlying Kenya's peace and security diplomacy is the recognition of peace and stability as necessary pre-conditions for development and prosperity.<sup>198</sup> Linked to this, is Kenya's conviction that its own stability and economic wellbeing are dependent on the stability of the sub-region, Africa and the rest of the world. According to the findings the objectives of this pillar include: Promote the resolution of conflicts by peaceful means; Collaborate with other African countries to strengthen the conflict prevention, management and resolution capacity of regional institutions, including the East African Community (EAC), Inter Governmental Authority on Development (IGAD), Common Market for Eastern and Southern Africa (COMESA) and the African Union (AU with the aim of promoting sustainable peace and development; Support peace efforts by the African Union and the United Nations through contributing troops and providing leadership in peacekeeping

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<sup>197</sup> Ibid p.69

<sup>198</sup> Shill I. B. Deputy Chairman of the Defence Committee interviewed on 20<sup>th</sup> Sep 2015

missions within the continent and globally; and Create conflict analysis and prevention capacity nationally and in the region through the Foreign Service academy. In pursuing these objectives, Kenya's foreign peace diplomacy continues to draw on Kenya's experiences in mediation, conflict resolution and peacekeeping. Further, Kenya will continue to support institutions that are involved in peace keeping in the Continent which include International Peace Support Training Centre and East African Standby Force Command among others.<sup>199</sup>

#### **4.7.2 Economic Diplomacy Pillar**

According to Rasso and Busienei<sup>200</sup> Kenya's quest for a peaceful and stable environment is linked to its socio-economic development and prosperity, and that of the region. A robust economic engagement is necessary to secure Kenya's regional and overall economic objectives in line with the Kenya Vision 2030. The findings established the objectives of this pillar as: to increase capital flows to Kenya and the East African region; Support export promotion and investment by Kenyan enterprises within the region and beyond; Promote the country as a favorite destination for foreign direct investment, tourism, and conferencing; Expand access to traditional markets and explore new destinations for Kenya's exports; Enhance technological advancement by exploring new sources of affordable and appropriate technology; Support the exploration of alternative sources of traditional and renewable energy; Strengthen regional economic communities and organizations to serve as competitive spring boards to emerging and global markets; and Promote fair trade and equitable bilateral, regional and multilateral trade agreements.

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<sup>199</sup> Ibid p. 75

<sup>200</sup> Rasso and Busienei Members of the Departmental Committee on Defence and Foreign Relations in the Eleventh Parliament (2013-2017) on 16<sup>th</sup> Sep 2015

### **4.7.3 Environmental Diplomacy Pillar**

It was observed that the Kenya Environmental Policy, 2013 underscores that environment and natural resources are valuable national assets upon which the country's sustainable development is anchored. The findings further established that Kenya recognizes its enormous stake in the sustainable management of its own natural resources, those of the region and the world. The strong orientation towards environmental issues is therefore a distinct feature of Kenya's Foreign Policy.<sup>201</sup> Among key issues underlined by the environment pillar is the effective implementation of the Multilateral Environmental Agreements (MEAs) such as the Convention on International Trade of Endangered Species (CITES). As the cradle of mankind and custodian of unique flora and fauna, Kenya takes seriously its obligation to transmit humanity's inheritance to posterity. Underlying this commitment is the urgency to confront the impact of contemporary environmental problems such as global climate change, ozone depletion, ocean and air pollution, and resource degradation compounded by the increasing world population.<sup>202</sup>

Based on the findings the objectives of this pillar are to: Champion the strengthening of United Nation's Environmental Programme (UNEP) and United Nations Human Settlements Programme in Nairobi (UN HABITAT) in prioritizing the global sustainable development agenda; Promote compliance with the relevant national, regional and international environmental legislation, regulations, standards, and other appropriate operational procedures and guidelines; Promote the integration of environmental management into national and regional

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<sup>201</sup> Sane I. Members of defence and foreign relations interviewed on 14<sup>th</sup> Sep 2015

<sup>202</sup> Ibid p. 78



economic activities, including agriculture and tourism to minimize negative impact on the environment; Promote research as a mechanism to encourage innovation and reduce adverse environmental impacts; and Encourage public dialogue, awareness and knowledge creation on environmental matters through national, regional and international forums.<sup>203</sup>

#### **4.7.4 Cultural Diplomacy Pillar**

According to Shill the potential of Kenya's cultural heritage is enormous and there is need for its exploitation for the development of the country.<sup>204</sup> Over the years Kenya has continuously placed emphasis on cultural recognition and understanding as the basis for dialogue. It is through cultural activities that a nation's idea of itself is best represented. Kenya's cultural diplomacy aims to increase awareness of her cultural richness and to generate interests in the country's cultural heritage. The objectives of this pillar are to: Respect and recognize cultural diversity and heritage; Promote cultural exchanges and partnerships; Promote global intercultural dialogue; Promote sports and art diplomacy by recognizing the role of Kenyan artist, athletes and other sportsmen and women; and Promote the recognition of Kiswahili as a continental and global language; The implementation of these pillars will provide a guiding framework for diplomatic engagements. This will further guide the country as it pursues its vision of becoming peaceful, prosperous and globally competitive while promoting sustainable development.

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<sup>203</sup> Ibid p.80

<sup>204</sup> Ibid p. 82

#### **4.8 Parliamentary involvement in control of election monitory process and political stability**

According to the findings<sup>205</sup> the immediate aftermath of the General Election held in December of 2007 highlighted the fragile link between the application of electoral law and the stability of the country's socio-economic and governance structures. Considerable public debate was generated on the condition of Kenya's electoral law and the role of the justice system in the resolution of disputes emerging from an electioneering exercise. The March 4, 2013 election was unique and unprecedented in both scale and complexity. Each Kenyan citizen was required to elect a total of six candidates for the post of President, Senator, Governor, Member of Parliament, County Representative and Women Representative as opposed to the previous elections where the elective posts were comprised of President, Member of Parliament and Councilor. Further the findings indicated that the run up to the elections was also contested on almost every level and this included: The promulgation of the Constitution, The selection of the Independent Electoral and Boundaries Commission (IEBC) Commissioners, Delimitation of under the Constitution of Kenya, 2010, The electoral laws and their inconsistencies with other laws, Procurement of the Biometric Voter Register (BVR) Kits, Political Party nominations and Election Petitions etc.<sup>206</sup>

According to the findings the elections were the first under the new Constitution, 2010, and were conducted under the IIEBC with the appointment of new members including the Commissioners who are on a contractual term of 6 years, after the ECK

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<sup>205</sup> soipan R. Member of defence and foreign relations on 10<sup>th</sup> Sep 2015

<sup>206</sup> Pkosing D and Busienei Members of the Departmental Committee on Defence and Foreign Relations in the Eleventh Parliament (2013-2017) on 9<sup>th</sup> Sep 2015

was disbanded.<sup>207</sup> The commission is responsible for conducting and supervising referenda and elections to any elective body or office established by the Constitution and any other elections prescribed by an Act of Parliament. The Judiciary took an active role in conjunction with other stakeholders to prepare for the elections through sensitization of the public on their role as patriotic Kenyan citizens and their right to vote and maintain peace. According to Wamunyinyi the judiciary also assured Kenyans that they had put in place all the necessary mechanisms to hear and determine all election petitions that would be filed after the declaration of the results of the Presidential Election 2013, within the constitutional provision of 6 months after the declaration of the results in order to ensure that justice is served. As part of Judiciary's preparations to create and implement effective mechanisms and capacity to resolve electoral disputes and deal with electoral offences, the Chief Justice appointed an eight-member team to design and execute a Judiciary programme to build the capacity of judges, magistrates and other judicial officers on electoral matters, and suggest ways of working with other stakeholders. The Judiciary Working Committee on Election Preparations (JWCEP) was unveiled on the 10<sup>th</sup> of May 2012 and the Committee was to operate under the aegis of the Judiciary Training Institute but report to the Chief Justice. Since the inception of the JWCEP, there have been various training secessions organized for the Judicial officers to equip them with the knowledge and skills crucial for the efficient and effective disposal of the filed election petitions as well as to ensure a comprehensive appreciation of the electoral process and the underlying principles and objectives.

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<sup>207</sup> Wamunyinyi W. An interview with a member of the committee on 21<sup>st</sup> Sep 2015

The findings indicated that out of the need to provide the information necessary to inform and guide the Kenyan citizens and recognizing that informed and timely judicial decision-making contributes to socio-economic stability, Kenya Law has prepared a comprehensive collection of literature by various judicial officers on issues regarding the electoral law, the Kenya Gazette which appointed the judicial officer who would preside over election petitions and also an updated report on the status of every election petition filed after the declaration of the March 4, 2013 elections. Currently available are three volumes of the Election Petition Law Reports which trace the development of judicial interpretations of the laws governing the conduct of presidential, parliamentary and civic elections in Kenya from as early as the 1960's. The same has been consolidated and is also available in a CD-R Computer E-Book.<sup>208</sup>

#### **4.8.1 Parliamentary Involvement in Conflict Prevention**

The findings established that to assist national reconciliation, the IPU convened a high-level seminar in Nairobi already in 2008 to assess the parliament's role in reconciliation and institutional reform process. The seminar adopted a roadmap which set out a number of time-bound actions to be taken by the parliament. A high-level commission was established to oversee the implementation of the roadmap with support from the IPU. By January 2010, the Parliament had carried out most of the actions included in the roadmap in terms of legislation and institutional reform. It had also worked on its own internal processes, adopting new Standing Orders to allow, among other things, for equal opportunity. It had instituted live broadcasting of its proceedings in order to introduce transparency and increase the people's trust in

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<sup>208</sup> Pkosing D. A members of the Departmental Committee on Defence and Foreign Relations in the Eleventh Parliament (2013-2017) on 9<sup>th</sup> Sep 2015

parliament. It had also passed the Truth, Justice and Reconciliation Act paving the way for the appointment of the members of the relevant Commission. Parliamentarians contributed financially and in a highly symbolic way to efforts to resettle persons displaced during the post-election violence, by contributing Ksh 50 000 each from their emoluments. The Speaker of Parliament has been acknowledged as having played a strong role in leading the parliament in these efforts. In 2010, he was voted the most popular institution in the country for his firm and impartial stewardship.<sup>209</sup>

According to the key informants<sup>210</sup>, in 2011, the parliament passed the Political Parties Act in a bid to professionalize and institutionalize political parties, which have traditionally been fragmented. Under this law, persons are not allowed to join more than one political party, and political parties are required to recruit no fewer than 1000 members who are registered voters in more than half of the counties, and they are required to promote the participation of women, youth, and persons with disabilities in their structures and political processes. Generally, the speed at which parliament has acted to enact the reforms called for in the reconciliation agenda has been seen as crucial for the implementation of this agenda in view of elections in 2013. Unresolved issues: In order to ensure the application of the gender quota, the Parliament still needs to pass the 2011 Constitution of Kenya (Amendment) Bill. Although the Political Parties Act has been enacted, implementation remains weak and political party registration often does not follow the given requirements. Furthermore, political organization in view of the upcoming elections continues to be along ethnic lines, suggesting that this root cause of conflict has not been resolved yet. The Truth Justice

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<sup>209</sup> An interview with a member of the committee Wamunyinyi W. on 11<sup>th</sup> sep 2015

<sup>210</sup> Ibid p.76

and Reconciliation has been bogged down by internal squabbling. Both the government of Kenya and the Parliament attempted to stop the ICC process. The Parliament voted in favor of removing Kenya as a state party to the Rome Statute, the international treaty which established the Court. The parliament itself has to pursue efforts to enhance public trust in the institution. The outcome of the 2013 elections will be determining as to how far Kenya has gone in fostering inclusion which has been historically elusive.

#### **4.9 The Parliament, Post-Crisis Reforms and Preventative Efforts**

Olson <sup>211</sup> says that the Electoral Commission of Kenya (ECK), now a defunct commission, was disbanded by the 10th Parliament in 2008 and replaced with the Interim Independent Electoral Commission of Kenya (IIEC). The old constitution provided for the ECK consisting of a chairman and a maximum of 21 members appointed by the president. Its core duties were defined by the constitution as: The registration of voters and the maintenance and revision of the register of voters. Directing and supervising the Presidential, National Assembly and local government elections, Promoting free and fair elections, Promoting voter education throughout Kenya, The Electoral Commission of Kenya had been bestowed with the main function of supervising and overseeing the whole electoral process to ensure it was effective and efficient.<sup>212</sup>

Samuel Kivuitu was the Chairman of the Commission at the time of its disbandment. Kivuitu was reappointed to his post by the Kenyan President Mwai Kibaki ahead of the 2007 general election, having already been in charge during Kenya's general elections in 1997, 2002 as well as a constitutional referendum in 2005. Mr. Kivuitu

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<sup>211</sup>Ibid p. 72

<sup>212</sup> Ibid p.80

had initially been appointed to the post by former president Daniel Arap Moi, replacing Mr. Zacchaeus Chesoni, who was the head of the Electoral commission during Kenya's 1992 general election. Civil unrest in the aftermath of Kenya's 2007 presidential elections and the election anomalies reported as a result prompted the government of Kenya to completely overhaul its system of managing elections. The Interim Independent Electoral Commission (IIEC) was formed to replace the Electoral Commission of Kenya and was charged with the mission to institutionalize sustainable electoral processes that would guarantee free and fair elections. The team had nine commissioners. The chairman and commissioners were nominated through a competitive process by Parliament appointed by the President in consultation with the Prime Minister and sworn in on May 11, 2009.

The body was mandated to: Reform the electoral process management of elections and to institutionalize free and fair elections, Establish an efficient and effective secretariat, Promote free and fair election, Register voters afresh and create a new voters' register, Develop a modern system for collection, transmission and tallying of electoral data, Conduct a referendum for a new constitution, Facilitate the observation, monitoring evaluation of elections and referenda, Promote voter education and culture of democracy, Settle minor electoral disputes during an election as may be provided by law.<sup>213</sup>

The IIEC had 12 months from December 24, 2009 to December 2010 to discharge its mandate. Alternatively, it would cease to exist three months after a new constitution was effected. In that case, the new constitution would provide for a permanent successor electoral body, which would take up the role of reforms. The Commission

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<sup>213</sup> Wamunyinyi W. Member of the committee on 12<sup>th</sup> Sep 2015

successfully fulfilled its mandate registered voters afresh and created a new register, conducted the referendum on the new Constitution and by-elections in Bomachoge, Shinyalu, South Mugirango, Matuga, Makadara, Starehe, Juja and Wajir South constituencies. Under the dispensation of the new constitution, there is a provision for the establishment of the Independent Electoral and Boundaries Commission (IEBC) whose responsibilities include: The continuous registration of citizens as voters, The regular revision of the voters roll, The delimitation of constituencies and wards, The regulation of nomination of candidates by political parties, The settlement of electoral disputes other than petitions, The registration of candidates for election, Voter education, The facilitation of the observation, monitoring and evaluation of elections, The regulation of the amount of money that may be spent by or on behalf of a candidate or party in any election, The development of a code of conduct for candidates and parties contesting elections, Monitoring compliance with the electoral laws, Supervising referenda and elections to any elective body or office established by this Constitution, Review the number, names and boundaries of constituencies at intervals of eight and twelve year. The boundaries for all the electoral areas are to be drawn by an Independent Electoral and Boundaries Commission (IEBC). The short listing of candidates for commissioners to the Independent Electoral and Boundary Commission (IEBC) kicked off where the selection panel forwarded three names for the chairperson's job, and thirteen names for commissioners to President Mwai Kibaki and Prime Minister Raila Odinga. The names are to be presented to parliament for approval.<sup>214</sup>

#### **4.10 Achievements of Parliament in Ensuring Political Stability**

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<sup>214</sup>Memusi and Mwendwa N. Members of the defence committee on 11<sup>th</sup> Sept 2015



Based on the findings in 2008, the Parliament fast-tracked the Agreement into law as the National Accord and Reconciliation Act. A most important step of the government of national unity was the promulgation of a new Constitution in August 2010. Kenya's parliament, the parliament, pursuant to the above-mentioned roadmap made a crucial contribution to the drafting of the new Constitution. Memusi and Mwendwa states that the Constitution decentralizes political decision-making and introduces a bicameral legislature, with stronger power, including more accountability by the president to the parliament as well as the parliament's right to impeach the president. It furthermore introduces electoral reforms for the presidential elections and quotas to ensure greater female parliamentary representation.<sup>215</sup> The Independent Electoral and Boundaries Commission (IEBC), which replaced the ECK, enjoys high levels of trust and confidence among Kenyans, which is largely derived from the fact that Commissioners are hired through a competitive process and vetting by the relevant parliamentary committees. Similarly, the Parliament nominated Judges to sit on the Electoral Dispute Resolution Court.

#### **4.10.1 Political Situation 2013**

On March 4, 2013, a record 12 million Kenyans participated peacefully in the first elections since post-election violence in 2007 and 2008 resulted in 1,500 deaths and the displacement of more than 600,000. Despite some flaws in the electoral process, domestic and international election observers characterized the polls as mostly credible. The elections marked the first polls since the passage of a new constitution in August 2010, which introduced sweeping changes to the political system, including the creation of a new devolved system of government that transfers authority for many government functions from the national level to 47 newly created counties;

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<sup>215</sup> *ibid* p.92

reduced presidential powers; the introduction of a bicameral system; the introduction of majority and minority parties in the national assembly; a more defined separation of powers between the three branches of government; electoral reforms; a restructured judiciary; security sector and land reforms; affirmative action for under-represented groups; and an expanded bill of rights.

According to the findings<sup>216</sup> many political and logistical obstacles will have to be overcome to ensure the successful implementation of the constitution and associated legislation, especially during the transition to devolved government. The success of devolution in Kenya will depend on the extent to which political leaders understand and respond to citizens' concerns, share information freely, solicit feedback about their own performance, and respect the rights of minority populations. While progress has been made to provide some of the necessary foundations for devolution, the post-election period has been marked by political polarization, and the transition is now taking place amid controversies over the roles and responsibilities of the devolved government structures. Still, a majority of Kenyans remain optimistic that devolution will address many of their most deep-seated political, social, and economic grievances; however, the ongoing disagreements may temper these expectations.

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<sup>216</sup>Wamunyinyi W. A member of the defence committee. on 13<sup>th</sup> Sep 2015

#### **4.11 Conclusion**

Based on the findings the foreign policy framework is premised on the dynamic character of Kenya's foreign policy which has enabled it to respond to changing developments in the diplomatic arena, for more than forty-six years. It provides a paradigm shift in Kenya's world view and the imperative to have a robust foreign policy in order to successfully pursue Kenya's national interests, objectives and priorities.<sup>217</sup> According to Busienei the policy has been conceived as a flexible tool that will require review from time to time to ensure relevance and to keep pace with a fast-changing diplomacy in the global arena. The policy outlines the goals, objectives, pillars of diplomacy, core priorities and strategies, as well as the institutions and instruments for implementation. Its successful implementation will also require a well-funded foreign policy implementation machinery.<sup>218</sup>

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<sup>217</sup> Hassan Y and lekuton J. member of the defence committee interviewed on 13<sup>th</sup> Sep 2015

<sup>218</sup> Ibid p.36

## **CHAPTER FIVE**

### **SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATION**

#### **5.1 Introduction**

This chapter presents summary of the findings, conclusions based on the findings and recommendations there-to on the role 'parliamentary diplomacy' in maintaining political stability. The chapter also presents recommendations for further studies.

#### **5.2 Summary of Findings**

The study aimed to assess the role 'parliamentary diplomacy' in maintaining political stability. It was guided by the following specific objective: To determine the extent to which parliament legislative roles affect political stability; To evaluate the extent to which plenary sessions dealing with foreign policy ensure political stability and To evaluate the extent to which Kenyan Parliament control of election monitoring process ensure political stability. The study established that Political stability refers to where a nation's politics fit on a spectrum between those two extremes. It was noted that problems challenging Kenyan political life are numerous, and some of them are cultural in the sense that they are related to cherished practices inherited from indigenous cultures. It was discovered that such problems do not only result from the imposition of European colonial rule with its concomitant introduction of European cultural values and institutions. Rather, some of the problems are related to the Kenyan capacity to grapple with the changing conditions of life, especially the challenge to integrate ethnic identities into the structure of nation-state.

#### **5.3 Discussion of the findings**

### **5.3.1 Parliament Legislative Roles on Political Stability**

The study further found out that parliament legislature under the devolution of government in Kenya as laid down in the constitution grants significant autonomy to the counties in terms of executive power, especially on functions that often cause inter-group conflict such as cultural preservation and local development planning. The regions have also been accorded identical relationship with the centre an important aspect of federalism which eliminates perceptions of the central government's bias towards certain regions or groups. The new system provides an opportunity for improved citizen involvement in decision-making and their innovative regional economic productivity. It also gives attention to traditionally marginalized groups.

The findings also reveal that parliament is Kenya's central political institution of governance and derives its mandate from the people. The road to the present day Parliament in Kenya has been long and not without drawbacks with similar experiences replicated in many other jurisdictions around the world. The powers and duties are expressly conferred upon parliament by the Constitution of Kenya. In many respects, Kenya's Parliament mirrors that of many other African and Commonwealth states. It existed under British rule for more than 40 years, had a British model of government imposed upon it at independence, and soon become a one-party state headed by a popular leader.

The study too found that the history of parliament in Kenya is an example of steady progress from colonial autocracy to a true modern democracy. Respondents confirmed that by accommodating cultural and historical realities the Kenyan Parliament has continued to allow for opposition and dissent within the system, while also providing stability for the governed to co-exist amidst diversity. As a country

with a colonial past, the transition process has also evolved through two distinct phases the pre-independence era, and the post-independence parliament. These two phases amplify the transition process for the Kenya Parliament. However, the trajectory of Parliament to exercise its constitutional mandate over time was shaped and weakened by subsequent amendments to the independence constitution.

### **5.3.2 Foreign Policy and Political Stability**

The study sought to investigate the relationship between Foreign Policy and Political Stability. The study found that a country's foreign policy, also called foreign relations policy, consists of self-interest strategies chosen by the state to safeguard its national interests and to achieve goals within its international relations milieu. The findings revealed that Kenya's foreign policy is anchored on five interlinked pillars of diplomacy: economic; peace; environmental; cultural and 'diaspora'. The economic diplomacy pillar aims to achieve robust economic engagement in order to secure Kenya's social economic development and prosperity that will ensure our nation becomes a middle income and industrialized economy by the year 2030. It was noted that the peace pillar seeks to consolidate Kenya's legacy in cultivating peace and stability as necessary conditions for development and prosperity in countries within the region. Environmental diplomacy recognizes Kenya's enormous stake in the management of its own resources, those of the region and the world and is designed to provide the link between the management of shared resources and issues of security, sustainability and prosperity especially within the Eastern African region.

Further the study established that the cultural pillar aims to use culture as a vital role in international relations especially through the use of Kiswahili language as the pedestal of our engagement with foreign cultures and the renowned Kenyan

personalities including athletes in order to exert greater influence on domestic, regional and international exchanges. 'Diaspora' diplomacy recognise the importance of harnessing the diverse skills, expertise and potential of Kenyans living abroad, and facilitating their integration into the national development agenda. This aspect of our foreign policy framework takes into account the recent inclusion of Africans in the Diaspora as the sixth region of the African Union. These pillars will be anchored on core priorities and strategies for bilateral and multilateral engagement. It was discovered that all foreign policies pillars aimed at improving the country's political stability.

#### **5.3.2.1 Foreign Policy Priorities and Strategies**

The study findings established that Kenya's foreign policy seeks to Promote economic development and prosperity by increasing market access, capital in-flows, and enhance technological advancement; Enhance peace and security by ensuring a stable sub-region, engaging in preventive diplomacy, combating international terrorism and transnational crimes and supporting post-conflict reconstruction and development; Take a leadership role in environmental diplomacy by addressing regional and global environmental issues, adherence to international laws and norms on the environment and participating in mechanisms for equitable and sustainable resource sharing; Use Kiswahili as the linchpin to our cultural diplomacy by establishing learning programmes in our Missions and linking Kenyan Kiswahili language learning centres to reputable institutions abroad as well as support to the adoption of Kiswahili as a UN language; and Promote Nairobi as a hub of multilateral diplomacy through enhancing the security and safety of organizations based or headquartered in the country,

and raising the profile and competitiveness of Nairobi as a center of multilateral and conference diplomacy. All these factors aim at improving political stability.

### **5.3.3 Parliament Control of Election Monitory Process and Political Stability**

The study established that Kenyan Parliament addressed country's worst post-election violence in 2008 which led to property destruction and claimed 1300 lives. There was consensus that inter-ethnic conflicts were universal phenomena that was neither new to Kenya nor to other democracies. From the study findings it was noticed that that Parliamentarians have the capacity to play a fundamental role in stemming conflicts given their unique roles as custodians, shapers and mobilizers of public opinion. This places enormous responsibility upon them and deepens their mandate, especially in conflict resolution and restoration of peace. The findings also revealed that the Kenya Parliament received a worthy accomplishment by playing a dynamic role of passing several laws to bring about peace and political stability during the 2008 postelection violence. Parliament's resolve to commentator and legitimize radical clearances into the structure demonstrated that the old-style role of Parliament is developing, and that its volume to concretize thoughts, rally widespread provision and crack them into exercise remains the responsibility of modern Governments. Parliamentarians witnessed that the being of trustworthy self-governing organizations is essential to the attainment and sustainability of durable concord and political stability.

Following the end of the crisis, it was noted that the Kenyan parliament began taking steps towards ensuring that widespread violence would not reoccur in the next presidential election. The findings further established that on 4 August 2010, the Kenyan public voted to accept a new draft constitution, with 67% of Kenyans approving the referendum. The constitution devolves power to local governments,



provides the Kenyan people with a bill of rights and paves the way for land reform. In particular, the new constitution vests coherent executive authority with the president rather than splitting power between the president and prime minister, as was previously the case. It also strips the presidency of certain powers and patronage that previously allowed for centralized control within the office of the President. It was also noted that under the new constitution, the electoral commission is considered independent and beyond presidential control. Another provision of the new governance framework set forth by the enactment of the new constitution is the mandatory creation of a designated seat for Kenyan women, with one required from each of the newly formed 47 counties.

#### **5.3.3.1 Internal Reforms and Implementation of Preventative Steps**

The findings reveal that Pursuant to the stipulations of the August 2010 constitution, the Independent Electoral and Boundaries Commission (IEBC) was formed and tasked with overseeing implementation of a variety of electoral reforms, as well as the monitoring of elections and dissemination of important information to the Kenyan populace, such as new registration processes and logistical details for polling centres on Election Day. Other IEBC mandates include ensuring credible, free and fair elections. To this end, the IEBC conducts and supervises referenda and elections, the registration of voters, the regulation of political parties, voter education, the settlement of electoral disputes, and modernization and reformation of the electoral process and its systems.

According to the findings electoral reforms included the reorganization of Kenyan geographical regions into 47 distinct counties, each with a governor, senator, district Assembly and a mandatory seat allocated for the representation of women. Other new requirements stipulate that any presidential candidate must secure at least half of the

popular vote in the general election, as well as at least 25% of the vote in 24 of the 47 districts. This requirement was meant to mitigate the ethnically and geographically-centered politics of the past by necessitating a wider base of support that cuts across traditional ethnic, geographic and political cleavages to ensure political stability.

#### **5.4 Conclusion**

It was noted that in recent years, the dominant ethnic groups have been on the forefront in fighting for political power. This situation has resulted into fighting to control the state. The relatively less dominant communities have been playing the card of opportunism. Many ethnic groups supported the armed struggle for independence in hope that they could regain their stolen lands. This expectation has not been a reality. The situation has fomented anger, resentment, lust for revenge, and aggressive competitiveness that has overlooked the common good of the entire country. Frustration among the poor, both in urban and rural areas, has created a growing tendency to use violence as a viable means to correct the situation. When violent reactions emerge, under the influence of ethno-political ideologies, tend to take the form of ethnocentrism, the ideology that animates the competition between ethnic groups.

It was also discovered that Ethnic identity derives its foundation from combined memories of the past and common expectation. Many people have lived and continue to lead their lives within the framework of an ethnic group. When a person is in difficulties, it is normal for this person to call for help from the ethnic community to which he (she) belongs. The findings reveal that in urban areas ethnic identity is appealed to when people are in need of financial support and political support. For many people ethnic identity stands as a symbol of communal solidarity and security.

The study concludes that ethnic identity, be it in rural or urban areas, remains a powerful force to reckon with, although it varies like temperature, from time to time, depending on prevailing political circumstances. It is a fluid concept, meaning different things at different times and contexts.

#### **5.4.1 Parliament Legislative Roles on Political Stability**

On parliament Legislative Roles and maintenance of Political Stability, the study concludes that democratization has become contagious all over the world. It has made people to be known as citizens with rights provided in the Constitution, not subservient subjects of a monarch, emperor or some silly dictator somewhere in a corner. Once people taste the fruits of democracy and freedom, their demands do not become less. Instead, democracy and freedom open more opportunities even for conflicts. But the beauty of it all, a people who want to live in a democratic environment must be prepared to negotiate debate and hold dialogue on all issues that concern their governance. People who hold the reins of power must do so by consent of the governed obtained in a fair and free elections. Parliament can only be empowered to be a useful organ of Government if the people of Kenya are empowered to elect a Parliament which will take all the risks needed to stand up for the people's right to be free hence political stability of the nation.

The study further concludes that the role of legislating is key in creating a framework for addressing historical injustices, political stability and sustainable peace. However, Members do not yet perform this role perfectly. To stem future reversals, participants concurred that the following are imperative: the focused implementation of Kenya's new constitution, the enhancement of multi-stakeholder forum, the entrenchment of a culture of constitutionalism and the promotion of continuous peace building

processes, even in the absence of potential conflicts. The Kenya Legislature earned an admirable achievement by playing a lively role of passing numerous laws to bring about peace and political stability during the 2008 post-election violence. Legislature's resolve to anchor and legitimize political settlements into the constitution proved that the traditional role of Legislature is evolving, and that its capacity to concretize ideas, mobilize popular support and turn them into practice remains the duty of modern Legislatures.

#### **5.4.2 Foreign Policy and Political Stability**

On Foreign Policy and Political Stability the study concludes that foreign policy provides a paradigm shift in Kenya's world view and the imperative to have a robust foreign policy in order to successfully pursue Kenya's national interests, objectives and priorities. The policy has been conceived as a flexible tool that will require review from time to time to ensure relevance and to keep pace with a fast-changing diplomacy in the global arena.

#### **5.4.3 Parliament Control of Election Monitory Process and Political Stability**

On Parliament Control of Election Monitory Process and Political Stability the study concludes that Parliament function is the eyes of the people in government that watch and monitor the activities of the executive arm and its agencies in the implementation of laws, programmes and policies meant to serve the collective interest of the electorates. It dictates waste, inefficiency, ineffectiveness, corruption, mismanagement of public resources, etc. Its relevance in a democratic governance need not be overemphasized. Oversight function in parliament is essentially valuable in ensuring that the intent of the legislature in legislating laws that will improve the living standard of the poor is reflected in the performance of the executive functions.

## **5.5 Recommendations**

The government should enhance the capacity of the law enforcement agencies in terms of regular training and equipping them with the latest technology in order for the law enforcers to effectively handle political instability.

### **5.5.1 Recommendation for Further Studies**

The study established that the different roles of parliamentary diplomacy in maintaining political stability. To augment this study, it is recommends that another study be conducted to establish roles of parliamentary diplomacy in all African states.

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## **APPENDIX: INTERVIEW GUIDE**

- 1. In your own opinion what Political stability?**
- 2. What are some of the Problems challenging Kenyan political stability?**
- 3. What was the status of Political Economy of Kenya: Fragility and the Post-2007 Election?**
- 4. Implications for political stability in Kenya under Devolved Government?**
- 5. How do you define Foreign Policy of a nation?**
- 6. What is the importance of Kenya's Foreign Policy in relation to political stability?**
- 7. What are the Pillars of Kenya's Foreign Policy in relation to political stability?**
- 8. How is the Parliamentary involved in control of election monitory process to ensure political stability?**
- 9. What's the role of The Parliament in Post-Crisis Reforms and Preventative Efforts in kenya?**
- 10. What are some of the Achievements of Parliament in Ensuring Political Stability during election time?**