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**Management of Politicized Ethnic Conflicts in the Post Cold War
Period: A Case Study of Kenya, 1991-2008**

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**A project presented in partial fulfillment of the requirements for
award of the degree of Master of Arts in International Conflict
Management**



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DECLARATION

THIS DISSERTATION IS MY ORIGINAL WORK AND HAS NOT BEEN SUBMITTED
FOR A DEGREE IN ANY OTHER UNIVERSITY

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DEDICATION

To my mother, Dorcas Kithike Muoka, who taught me the virtues of education at an early age.

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ABSTRACT

The study found out that low satisfaction of individual human needs, physical and psychological, by the government leaves individuals and ethnic groups prone to manipulation by political elites to engage in ethnic conflicts. In manipulating members of ethnic groups and the ethnic groups as a whole, leaders persuade them to believe that the president and his ethnic group are to blame for their unsatisfied needs. This sets a stage for ethnic clash as ethnic groups rise against each other questioning the status quo. Therefore the best approach in prevention and management of politicized ethnic conflicts is through satisfaction of human needs both physical and psychological.

The study found out that the extent to which the government uses deterrence measures to crack down on reformists and quell ethnic clashes determines the potential for politicization of ethnic conflicts. By using excessive force the government plays in the hands of ethnic war lords who use violence as a way of expressing their grievances to the authority.

The study also found out that there is a positive correlation between the number of registered parties and the intensity of violence. A high number of registered political parties shows an increase in desire by political elites to use their ethnic groups as launching pads to attaining leadership. When it became clear after the first two multiparty elections (1992 and 1997) that no one ethnic group can propel one of their own to top leadership, the politics of coalition building started. The first coalition party, National Rainbow Coalition (NARC) was launched prior the 2002 general elections. It was a grouping of political parties with each party representing an ethnic voting bloc.

ACRONYMS AND ABBREVIATIONS

ANC	African National Congress
AP	Administration police
AU	African Union
CAPU	Coast African Political Union
CCM	Chama Cha Umma
CIPEV	Commission of Inquiry into Post Election Violence
CJPC	Catholic Justice and Peace Commission
CODESRIA	Council for the Development of Social Science Research in Africa
DC	District Commissioner
DP	Democratic Party of Kenya
EAC	East African Community
ECOMOG	Economic Community of West African States Ceasefire Monitoring Group
ECOWAS	Economic Community of West African States
EU	European Union
FORD	Forum for Restoration of Democracy
FORD-K	Forum for Restoration of Democracy Kenya
FRELIMO	Frente de Libertacao de Mocambique (Liberation Front of Mozambique)
GEMA	Gikuyu Embu Meru Association
GoSS	Government of Southern Sudan
GSU	General Service Unit
ICC	International Criminal Court
ICJ	International Commission of Jurists

IDIS	Institute of Diplomacy and International Studies
IDPs	Internally Displaced Persons
IDS	Institute for Development Studies
IED	Institute for Education in Democracy
IGAD	Inter Governmental Authority on Development
IGADD	Inter-Governmental Agency on Development and Desertification
IREC	Independent Review Commission
KADU	Kenya African Democratic Union
KANU	Kenya African National Union
KAPP	Kenya African People Party
KASU	Kenya African Socialist Union
KAU	Kenya African union
KCA	Kikuyu Central Association
KEDOF	Kenya Elections Domestic Observation Forum
KENDA	Kenya National Democratic Alliance
KNC	Kenya National Congress
KNHRC	Kenya National Human Rights Commission
KPA	Kalenjin Political Alliance
KPU	Kenya People's Union
KSC	Kenya Social Congress
LDP	Liberal Democratic Party
LU	Luhya Union
LUM	Luo Union Movement

MIT	Massachusetts Institute of Technology
MOU	Memorandum of Understanding
MP	Member of Parliament
MUF	Maasai United Front
NAK	National Alliance Party of Kenya
NARC	National Rainbow Coalition
NCCCK	National Council of Churches in Kenya
NPFL	National Patriotic Front of Liberia
NDP	National Development Party
ODM	Orange Democratic Movement
PC	Provincial Commissioner
PICK	Party of Independent Candidates of Kenya
PNU	Party of National Unity
RENAMO	Resistencia Nacional Mocambicana Mozambican (National Resistance Movement)
SDF	Self Defense Forces
SID	Society for International Development
SNA	Somali National Association
SOP	Standard Operating Procedures
SPLM	Sudanese People Liberation Movement
UKA	Ugenya Kager Luo Clan Association
UN	United Nations
UNEP	United Nations Environmental Programme

UNOSOM I United Nations Operations in Somalia I

US United States

USSR Union of Soviet Socialist Republic

YKA Young Kikuyu Association

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1.1 INTRODUCTION

International peace and security is threatened by intermittent interstate and intrastate conflicts. According to Nnoli¹ conflicts refer to contradictions arising from differences in interests, ideas, ideologies, orientations, perceptions and tendencies. The contradictions exist at all levels of society, individual group, institutions and nations as well as in interpersonal, inter-group, inter-institution and international relations.² To de Reuck³ conflict arises when parties perceive that they possess mutually incompatible goals. Incompatibility of goals is fundamental to the existence of conflicts whether dealing with structural or behavioural violence. Behavioral violence involves the deliberate use of physical force while structural violence is a type of conflict embedded in structure of relationships and interactions.⁴

Conflict is endemic and systematic in many countries divided by class, ethnicity, religion, language⁵ and political party loyalties. Ethnic identity has a symbolic dimension which makes conflict arising from it more intense than arising from other cleavages. Because ethnic cleavages coexist with other important cleavages which also constitute the basis for political contestation notably class, religion, race and regionalism and are reinforced by them, ethnic conflicts usually also involve the mobilization of one or more of these cleavages, depending on the situation and the issues of contestation.⁶ Like religion ethnicity has the symbolic capability of defining for the individual the totality of his or her existence including embodying his hopes, fears, and sense of future. However in all the cleavages, political party loyalty and ethnicity are largely to blame for

¹ O. Nnoli, 'Ethnic Conflicts in Africa: A Comparative Analysis', in O. Nnoli, *Ethnic Conflict in Africa* (Dakar: CODESRIA, 1998), p. 6

² Ibid

³ A. de Reuck, 'The Logic of Conflict: Its Origin, Development and Resolution', in M. Banks (ed), *Conflict in World Society: A New Perspective in International Relations* (Sussex: Harvester Press, 1984), pp. 96-97

⁴ M. Mwagiru, *Conflict in Africa: Theory Processes and Institutions of Management* (Nairobi: Centre for Conflict Research, 2000) pp. 14-15

⁵ H. Jeong, *Peace and Conflict Studies: An Introduction* (Ashgate Publishing Limited: 2000), p. 16

⁶ E. E. Osaghae, 'Human Rights and Ethnic Conflict Management: The Case of Nigeria', *Journal of Peace Research*, Vol. 33, No. 2 (May, 1996) pp. 171-188:173

the persistence of international conflicts especially in the post Cold War period. The end of the Cold War changed the international agenda in some fundamental ways⁷. In place of a clear-cut East/West conflict dominated by two contending superpowers a number of diverse issues emerged in world politics including state partition and disintegration, civil war, democratization, national minorities, and mass migration and refugee problems.⁸ The early 1990s witnessed the occurrence of ethnic conflicts in not only parts of Eastern Europe, the former Soviet Union, but also Africa.⁹ In the post Cold War period localities, states and sometimes whole regions have been engulfed in ethnic insecurity, violence, and genocide.¹⁰

Kaufman¹¹ attributes the post Cold War phenomenon to three conditions. First politicians use preexisting reservoir of myths about rival ethnic populations to mobilize the public along cultural lines. Secondly ethnic groups fear being dominated economically, politically and demographically by other groups hence elections are reduced to a-must-win contests. Thirdly, the decline in state capacity to maintain order through monopolizing the legitimate use of violence forces ethnic groups to shore up their own security before their counterparts get the upper hand. In some regions, especially in the Sub-Saharan it is acknowledged that states lack the empirical attributes of statehood.¹² An entity to qualify as a state should have a territory, permanent population, effective government in control, and capacity to enter into relations with other states.¹³

⁷ G. Sorensen, 'IR Theory after the Cold War', *Review of international Studies*, Vol. 24, The Eighty Years' Crisis 1919-1999 (Dec., 1998), pp. 83-100:84

⁸ Ibid

⁹ D. A. Lake & D. Rothchild, 'Containing Fear: The Origin and Management of Ethnic Conflict', *International Security*, Vol. 21, No. 2 (Fall 1996), pp.41-75: 41

¹⁰ Ibid

¹¹ S. J. Kaufman, 'Modern Hatreds: The Symbolic Politics of Ethnic War', *Foreign Affairs*, Vol. 80, No. 6 (Nov.-Dec. 1981), pp.165-170: 166

¹² R. Brubaker and D. D. Laitin, 'Ethnic Violence and Nationalist Violence', *Annual Review Sociology*, 1998, pp. 423-452:424

¹³ See Article 1 of the 1933 Montevideo Convention on the Rights and Duties of States

In the post Cold War multiparty politics organized ethnic violence orchestrated by political parties marks general elections in many countries especially in the developing world. Ethnic groups rise against each other and at worst there is ethnic cleansing where members of some ethnic groups are uprooted from regions predominantly occupied by members of other ethnic groups in a scheme meant to disenfranchise voters during elections. Proliferation of political parties and the rising consciousness of ethnic differentiation in developing countries have served to derail attempts of eradicating international conflicts. Negative ethnicity is a distinct phenomenon in an ethnic diverse and multiparty society. It is a global challenge. It reaches its peak during electioneering period.

1.2 BACKGROUND TO THE PROBLEM OF STUDY

The international community in the principle of collective security¹⁴ bestows the UN Security Council with the responsibility of maintaining international peace and security. Article 39 in opening of Chapter VII reads

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations or decide what measures shall be taken in accordance with Article 41 and 42 to maintain or restore international peace and security.¹⁵

When the UN Security Council determines that a threat does exist, it can institute humanitarian assistance, fact finding mission, mediation efforts, peacekeeping, economic sanctions and arms embargoes, judicial enforcement measures and use of military forces.¹⁶ The UN Security Council has employed some of these intervention measures in dealing with conflicts in various parts of the world majority of which have been inter-state conflicts. However ethnic conflicts and

¹⁴ Collective security postulates the institutionalization of lawful use of force in the international community

¹⁵ See Article 39, Chapter VII, United Nations Charter

¹⁶ C. de Jonge Oudraat, 'The United Nations and Internal Conflict', in M. Brown (ed), *The International Dimension of Internal Conflict* (Cambridge: The MIT Press, 1996)

conflicts arising from political party competition for power (intra-state conflicts) have continued to pose a major challenge. State coercive or repressive and elitist approaches to political control in post colonial states have often proved counterproductive with respect to resolving politicized ethnic conflicts.¹⁷ For example in Guyana, the state accepted international mediation of ethnically and politically instigated election violence in 1992 after a long period of repressive approaches such as incarceration of political leaders, and divide and rule tactics complemented by state sponsored use of police and paramilitary violence to counter legitimate political violence.¹⁸ In the post Cold War period, politicized ethnic conflict spell doom to world peace. Political pluralism has failed to contribute to international peace building and has led to a vicious cycle of conflicts which in some cases turns to civil wars and at worst to genocide as it happened in Rwanda in 1994.

Likewise politicized ethnic conflicts have persisted in the face of regional organizations like Africa Union (AU) whose their constitutive charters empower them to maintain peace in their respective regions. Regional organizations are subordinate to the UN Security Council and are empowered by Article 52 of the UN Charter to act on behalf of the Council in maintenance of international peace and security. Individual countries have sought various methodologies to deal with conflicts. For example Nigeria the most heterogeneous Africa nation in her desire to contain the many ethnic groups within the framework of a united country passed a federal constitution in 1979 which sought to guarantee ethnic equality and equal ethnic opportunities in governments, political parties, and non governmental establishments.¹⁹ All government and parastatal organizations had to reflect the plural composition or the federal character of the nation. Although it was an ingenious device it did not fully succeed in neutralizing divisive ethnic passions as the

¹⁷ P. Mars, 'Ethnic Politics, Mediation and Conflict Resolution: The Guyana Experience', *Journal of Peace Research*, Vol. 38, No.3, Special Issue in Conflict Resolution in Identity-Based Disputes (May, 2001), pp. 353-372:354

¹⁸ Ibid p. 362

¹⁹ J. A. A. Ayaode, 'Ethnic Management in the 1979 Nigerian Constitution', *Publius*, Vol. 16, NO. 2 (Spring, 1986), pp. 73-90:73

1979 elections posed serious problems of interpretation of its provisions on federalism.²⁰ In Kenya after three multiparty elections (1991, 1997 and 2002) were marred by ethnic violence which was largely blamed on ethnicized political parties, the Political Parties Act 2007, was enacted in the eve of the 2007 general elections with a provision barring Registrar of Political Parties from registering political parties founded on ethnic background. The Act came into force in July 2008.

The Act reads in part

The Registrar (of Political Parties) shall not register a political party which is founded on an ethnic, age, tribal, racial, gender, regional, linguistic, professional or religious basis or which seeks to engage in propaganda based on any of these matters.²¹

1.3 STATEMENT OF THE RESEARCH PROBLEM

The introduction of multiparty politics in most developing countries in the early 1990s saw the beginning of politicization of ethnic conflicts. In post Cold War period political party competition for power has brought new dimension to ethnic conflicts. Political elites use their ethnic identities as tools to advance their political ambitions. In a multi ethnic society there is high likelihood to find political elites behind specific political parties pretending to champion interests of their ethnic folk. Ideally political parties and ethnic groups are agents of socioeconomic and political change. However they have turned out to be the leading contributors of international conflicts. The increasing number of civil wars perpetrated by political parties and ethnic groups seem to suggest that the UN and regional organizations are to some extent unable to maintain international peace and security as spelt out in their respective charters. Individual countries have also failed to keep peace within their borders.

²⁰ Ibid p. 87

²¹ See Article 14, Clause 1 (a) of The Political Parties Act, 2007

In the 21st Century the emphasis has been on state security and economic development with countries formulating development blue prints which concentrate on revamping economic sectors. Little attention is paid to the threat posed by ethnic conflicts to human security and state security in general. The assumption is that the state can prosper economically and individuals can enjoy peace if there is no external aggression. This is simplistic understanding of security. State security is threatened by human insecurity and the state can not be secure unless its human populace is guaranteed of their security. Ironically some countries especially in the developing world continue to spend large sums of money to buy sophisticated weapons in anticipation of external threats yet ethnic conflicts within borders continue unabated.

Politicized ethnic conflicts are of global concern and their threat to world peace remains not only one of the biggest challenges in the post Cold War period, but also the most under-researched areas of international conflict analysis, prevention and management. The failure at different levels to prevent and manage politicized ethnic conflicts calls for better ways of preventing and managing ethnic conflicts. This study uses Kenya as model to study the approach used in prevention and management of politicized ethnic conflicts. It also provides better ways of their prevention and management. Is wrong approach to management of politicized ethnic conflicts to blame for the persistence of international conflicts?

The study focuses on politicization of ethnic conflicts and their management in Kenya in the post Cold War period, that is, from 1991 to 2008. The focus on this period and not any other period is deliberate. First political elites have played the ethnic card more in this period than any other period leading to an upsurge of ethnic conflicts which have claimed more lives than before. Secondly, it is in this period that several states have disintegrated into smaller units compared to

any other period. Thirdly politicized ethnic conflicts have been more frequent and pervasive in this period than any other period.

1.4 OBJECTIVES OF THE STUDY

The overall objective is to find out a better way of managing ethnic conflicts as an aspect of national and regional conflicts with a view to contributing to the search for international peace and security.

Specific objectives

- (a) To find out the causes of politicization of ethnic conflicts
- (b) To examine the approaches used in prevention and management of politicized ethnic conflicts
- (c) To find out the challenges encountered in managing politicized ethnic conflicts
- (d) To find out the appropriate approach which can be used at various levels to prevent and manage politicized ethnic conflicts

1.5 JUSTIFICATION AND SIGNIFICANCE OF THE STUDY

1.5.1 Policy Justification

The study is expected to contribute knowledge that can assist policy makers in formulating better policy frame works and strategies for specifically dealing with ethnic conflicts and generally addressing international conflicts. It is also expected to provide a basis for forging ethnic cohesion and integration regionally and globally by coming up with methodologies to address negative elements that divide people.

1.5.2 Academic Justification

The study will contribute to theory building in conflict prevention and management and indicate factors that make ethnic conflicts a vicious cycle. It will also provide a more reliable approach of preventing and managing them as well as ways of predicting and monitoring them.

1.6 LITERATURE REVIEW

This section seeks to review scholarly contribution in ethnic heterogeneity of states, origin and causes of ethnic conflicts, ethnic diversity and ethnic conflict, internationalization of conflicts and persistence of ethnic conflicts in the post Cold War period.

1.6.1 Ethnic Heterogeneity of States

Almost all states in the world are ethnically heterogeneous.²² An ethnically heterogeneous state means a state having more than one ethnic group or community occupying its territory. Smith²³ defines an ethnic community as a named human population with a myth of common ancestry, shared memories, and cultural elements; a link with a historic territory or homeland; and a measure of solidarity. According to Welsh²⁴ approximately out of the 180 states in the world fewer than 20 are ethnically homogenous.

An ethnically homogeneous state means a state having only one ethnic group occupying its territory. For Jeong²⁵ less than 10 per cent of states could claim to be true nation states, and at least 2,000 self-conscious ethnic communities exist. Jeong argues that a pure nation-state is an exceptional phenomenon because the territorial frontiers of the sovereign state are rarely congruent

²² D. Welsh, 'Domestic Conflicts and Ethnic Conflicts' in M. E. Brown (ed), *Ethnic Conflict and International Security* (Princeton, Princeton University Press, 1993), p. 45

²³ A. Smith, 'Ethnic Sources of Nationalism' in M. E. Brown (ed), *Ethnic Conflict and International Security* (Princeton, Princeton University Press, 1993), pp. 28-29

²⁴ D. Welsh, op cit (fn. 22) p. 45

²⁵ H. Jeong (2000), op cit (fn 5), p 232

with national boundaries and state territories are either larger or smaller than the area inhabited by the corresponding nation. He gives examples of Kurds who do not have a state of their own and are spread across Turkey, Iraq, Iran, and Syria; and Palestinians who are spread across Jordan, Israel, and other Middle Eastern states to show how nation-states can be scattered over several state borders.²⁶ Kenya has 42 ethnic groups and is an example of a state whose some of its ethnic groups are spread across the borders of neighbouring countries, for example Maasais are found in Kenya's Rift Valley Province in Namanga as well as in Tanzania's Kilimanjaro area, and Somalis in North Eastern and in Somali (See Appendix II for a Map showing the distribution of various ethnic groups in Kenya).

Marx Weber defines state as a corporate group that has compulsory jurisdiction, exercises continuous organization, and claims a monopoly of force over a territory and its population.²⁷ A nation is a grouping of people who view themselves as being linked to one another in some manner.²⁸ According to Stack Jr.²⁹ the nation constitutes the most politicized form of ethnicity while for Tarimo³⁰ ethnic identities provide meaning and content to the nation-state and ethnic identities cannot be suppressed by the state.

1.6.2 Primordialist Versus Constructivist Debate

Scholars have come up with different explanations on the origin of ethnic identity and ethnic violence. In their pioneering study on social construction of ethnic identity, Fearon and

²⁶ Ibid

²⁷ R. H. Jackson & C. G. Rosberg, 'Why Africa's Weak States Persist: The Empirical and Juridical in Statehood', *World Politics*, Vol. 35, No. 1 (Oct., 1982), pp. 1-24: 2

²⁸ D. S. Papp, 'Contemporary International Relations: Framework for Understanding, 3rd Edition (New York: Macmillan Publishing Company, 1991), p. 27

²⁹ J. F. Stack Jr., 'The Ethnic Challenge to International Relations Theory', in D. Carment & P. James, *War in the Midst of Peace: The International Politics of Ethnic Conflict (Pittsburg, 1997)*, p. 5

³⁰ A. Tarimo, 'Competing Identities, Loyalties and Interests', in A. Tarimo & P. Manwelo (eds), *Ethnicity, Conflict, and the Future of African States (Nairobi: Pauline Publications Africa, 2009)*, p. 29

Laitin³¹ embrace the constructivist/instrumentalist approach to the origin of ethnic identities and argue that social construction of ethnicity has little or no bearing on likelihood of ethnic violence. Constructivists, like Fearon and Laitin, argue that ethnic identities are socially determined.³² In the constructivist view, ethnicity is not an individual attribute but a social phenomenon.³³ A person's identity remains beyond the choice or control of that individual and as social interactions change, conceptions of ethnicity evolve as well. Fearon and Laitin disregard primordial explanation on the origin of ethnic identities and contend that it is individual actions; either the elites who construct antagonistic identities to maintain or increase their political power, or the mass publics whose individual actions produce, reproduce, and contest the content and boundaries of ethnic categories.

Primordialism proponents argue that people's ethnic identities have biological and even genetic foundations, and that the motivation for ethnic and kinship affiliation comes from these socio-psychological forces internal to the individual and related to primordial human needs for security and survival.³⁴ A study carried by Kaufman³⁵ supports the views by Fearon and Laitin by arguing that an ethnic conflict can be elite-led, that is, ethnic wars can be created by leaders of ethnic groups for their own political purposes. Kaufman cites ethnic wars in former Yugoslavia as having all the hallmarks of elite-led violence, with Serbian leader Slobodan Milosevic as the central player.³⁶ Ethnic conflicts involve deliberate and systematic attacks on civilians. The target of ethnic groups in war is members of other ethnic groups. An example is the Rwanda genocide. In

³¹ J. D. Fearon & D. D. Laitin, 'Violence and Social Construction of Ethnic Identity', *International Organization* 54, 4, Autumn 2000, pp. 845-877:846

³² Ibid p. 850

³³ D. A. Lake & D. Rothchild, 'Spreading Fear: The Genesis of Transnational Ethnic conflict', in D. A. Lake & D. Rothchild, eds, *The International Spread of Ethnic Conflict: Fear, Diffusion, and Escalation* (Princeton: Princeton University Press, 1998), p. 6

³⁴ F. P. Harvey, 'Primordialism, Evolutionary Theory and Ethnic Violence in the Balkans: Opportunities and Constraint for Theory and Policy', *Canadian Journal of Political Science* Vol. 33, No. 1 (Mar., 2000), pp 37-65:40

³⁵ S. J. Kaufman, 'An 'International' Theory of Inter-Ethnic War', *Review of International Studies*, Vo. 22, No. 2 (April, 1996), pp. 149-171: 150

³⁶ Ibid p. 159

Rwanda in April, May, June of 1994 approximately 500,000 to 800,000 Tutsi were killed by civilian militias and Hutu dominated Army following the assassination of President Juvenal Habyarimana.³⁷ This was after a long period of hostility between Hutus and Tutsi.

1.6.3 Ethnic Diversity and Ethnic Conflict

According to Shultz³⁸ not all ethnic groups are prone to conflict. He argues that some of the characteristics that ethnic conflicts have in common are that they occur where various ethnic communities are linked by little more than geography and policing power of the government, ethnic groups see differences with other groups as permanent and irreconcilable, and ethnicity is principal form of identification and group view others through 'we-versus-they' prism. Fearon and Laitin, and Kaufman, concur that ethnic diversity does not necessarily lead to ethnic conflict (an ethnic conflict is a dispute about important political, economic, social, cultural, or territorial issues between two or more ethnic communities).³⁹ Other scholars support this view. In systemic explanations of ethnic conflict, Brown⁴⁰ posits two prerequisites for the occurrence of an ethnic conflict. According to him the first and obvious systemic prerequisite is that two or more ethnic groups must be in close proximity. 'Systemic explanations of conflict focus on the nature of the security systems in which ethnic groups operate and the security concerns of these groups'.⁴¹

The second prerequisite is that national, regional, and international authorities must be too weak to keep groups from fighting and too weak to ensure the security of individual groups. He argues that some of the characteristics that ethnic conflicts have in common are that they occur

³⁷ R. Bhavnani & D. Backer, 'Localized Ethnic Conflict and Genocide: Accounting for Differences in Rwanda and Burundi', *The Journal of Conflict Resolution*, Vol. 44, No. 3 (Jun., 2000), pp. 283-306: 285

³⁸ R. H. Shultz Jr., 'State Disintegration and Ethnic Conflict: A Framework for Analysis', *Annals of the American Academy and Social Sciences*, Vol. 541, Small Wars (Sep., 1995), pp. 75-88:78

³⁹ M. E Brown, 'Causes and Implications of Ethnic Conflict', in M. E. Brown (ed), *Ethnic Conflict and International Security* (Princeton, Princeton University Press, 1993), p. 5

⁴⁰ *Ibid* p. 6

⁴¹ *Ibid*

where various ethnic communities are linked by little more than geography and policing power of the government. Based on Brown's two prerequisites, and Shultz characteristics it can be argued that in ethnically heterogeneous states where security concerns of individual ethnic groups is assured and the state has the sole monopoly of use of force over a territory and its population, then diverse ethnic groups can coexist peacefully. Among developing countries, Africa is more ethnically diverse than other regions and it has the highest incidence of civil wars, a phenomenon often interpreted as the post-colonial re-emergence of ancestral ethnic hatreds.⁴²

Jeong⁴³ posits that individuals are psychologically more strongly attached to a nation than a state which is represented by a government or other bureaucratic entities and in a state comprising a single nation almost everyone is supposed to accept and support the state legitimacy. However, it should also be understood that an ethnically homogenous state is not a guarantee that peace and economic prosperity will prevail. Peace⁴⁴ is used here to refer to the absence of violence. Intra-ethnic clan-based or religious-based wars pose a serious challenge to some of the few homogenous states. A good example in Africa is Somali. Despite being an ethnically homogeneous state Somali has been experiencing clan-based civil war over the past several decades.

Brubaker and Laitin⁴⁵ argue that inter-ethnic violence is conditioned by intra-ethnic processes or mechanisms. They posit that the processes although not the immediate or underlying cause of violent conflicts, do casually shape their incidence and modalities. Such mechanisms or processes include in-group policing, deliberate staging of violence to deflect inter-group challenges, and ethnic outbidding. According to Laitin, in-group policing involves the formal or

⁴² P. Collier, P. Honohan & K. O. Moene, 'Implications of Ethnic Diversity', *Economic Policy*, Vol. 16, No. 32 (Apr., 2001), pp. 129-166:129

⁴³ H. Jeong, *Understanding Conflict and Conflict Analysis* (London: Sage Publications Ltd, 2008), p. 58

⁴⁴ For detailed analysis of peace as negative, and positive, see Johan Galtung, 'Violence, Peace, and Peace Research', *Journal of Peace Research*, Vol. 6, No.3. (1969), pp.167-191

⁴⁵ R. Brubaker and D. D. Laitin, op cit (fn. 12), pp. 423-452:433

informal administration of sanctions even violent sanctions, within a group so as to enforce a certain line of action *vis-a-vis* outsiders who may be defined not only in ethnic terms but in religious, ideological, class, and other terms.⁴⁶

According to Lake and Rothchild ethnic conflict is caused by collective fears of the future.⁴⁷ They argue that it is not caused directly by inter-group differences, 'ancient hatreds', centuries-old feuds or the stresses of modern life within a global economy. The two scholars embrace constructivist approach to show how strategic interactions between and within groups cause ethnic conflict. They argue that situations of emerging anarchy and violence arise out of the strategic interactions between and within groups.

Posen⁴⁸ argues that in a situation of emerging anarchy, which he refers as ethnic security dilemma, ethnic groups fail to distinguish between defensive and offensive actions by others and are more willing to act offensively to safeguard their security. This situation leads to ethnic groups to be locked in armed races, that is, competition in armament and rearmament. Security dilemma though a basic concept from realist tradition applied in inter-state relations can as well be applied in intra-state level of analysis and more precisely in ethnic conflict. Back to Lake and Rothchild, three strategic dilemmas occur between ethnic groups, that is, information failures, problems of credible commitments and security dilemma cause violence to erupt while within groups, ethnic activists and political entrepreneurs may make blatant communal appeals and outbid moderate politicians thereby mobilizing members, polarizing society, and magnifying the inter-group dilemmas.⁴⁹ Non rational factors such as emotions, historical memories, myths can exacerbate the

⁴⁶ Ibid

⁴⁷ D. A. Lake & D. Rothchild (1998), *op cit* (fn. 33), p. 41

⁴⁸ See B. R. Posen, 'The Security Dilemma and Ethnic Conflict' in M. E. Brown (ed), *Ethnic Conflict and International Security* (Princeton: Princeton University Press, 1993), pp. 103-124:105

⁴⁹ Ibid p. 44

violent implications of these inter-group interactions.⁵⁰ These factors played a role in the disintegration of Yugoslavia in 1991 where deep-seated mutual distrust between Serbs and Croats gave rise to intransigence.⁵¹

1.6.4 Internationalization of Conflicts

Burton⁵² in rooting for world society school of international relations argues that the interdependence of international society makes it difficult to draw a hard line between the internal and the international. In Burton's view ethnic conflicts or generally intrastate conflicts which can also be religious in nature are international conflicts. Ethnic conflicts are internationalized by a variety of factors, for example, the existence of ethnic kith and kin in other countries, ideological sympathy by outsiders for one of the ethnic groups in conflict, and migrations of ethnic communities to bordering countries.⁵³ According to Lake and Rothchild⁵⁴ ethnic conflict spreads across state borders either through diffusion or escalation. Diffusion occurs when ethnic violence in one state increases the probability of conflict in another state while escalation occur when a conflict in one country brings in new, foreign belligerents – whether neighbours or great powers with global reach.⁵⁵ The conflict in Rwanda, for example, diffused to neighbouring Zaire when Tutsi-related groups there emerged to challenge the state; the conflict also escalated when Tutsi-led Rwandan government forces intervened on an informal basis in support of their ethnic-brethren and in an effort to check the extremist Hutus harbored in the refugee camps along its border.⁵⁶

⁵⁰ Ibid

⁵¹ G., Schofiin, 'The Rise and Fall of Yugoslavia', in J. McGarry & B. O'Leary, *The Politics of Ethnic Conflict Regulation: Case Studies of Protracted Ethnic Conflicts* (London: Routledge, 1993), pp.172-203:182

⁵² See J. W. Burton, *World Society* (London, 1972)

⁵³ M. Mwagiru, 'The Organization of African Unity (OAU) and the Management of Internal Conflict in Africa', *International Studies*, Vol. 33, No. 1 (1996), p. 9

⁵⁴ D. Lake & D. Rothchild, op cit (fn. 33), pp. 23-30

⁵⁵ Ibid

⁵⁶ Ibid

Ethnicity, therefore, is not only a cause of conflicts, but also an internationalizing agent of internal conflicts.⁵⁷

1.6.5 Persistence of Ethnic Conflicts in the Post Cold War Period

The end of the Cold War weakened states as the Soviet Union and the US curtailed their commitments of military and other state strengthening resources.⁵⁸ The superpowers became reluctant to intervene in intrastate disputes, in this case ethno political conflicts, which did not have their national interests. This weakened the state and created room for disgruntled elements, who in the Cold War period were contained by foreign powers, to coalesce as ethnic groups or religious organizations to start pushing for multiparty system to replace the discredited single party systems. These groups accused those in power of being dictators and questioned their legitimacy. The push for multiparty politics in most cases turns violent. For example in 1993 Congo-Brazzaville reverted to a multiparty system after a wide spread bloodshed where 2,000 people were killed, between 100,000 and 300,000 people displaced, and 13,000 houses destroyed.⁵⁹

The UN started early post Cold War 1990s with high hopes of ending protracted civil wars. The end of the Cold War heralded a new beginning for the UN. In January 1992 Boutros Boutros-Ghali, the first UN Secretary General in the post Cold War era, captured the enthusiasm which greeted the end of the Cold War by proclaiming that an opportunity has been regained to achieve the great objectives of the UN Charter of maintaining international peace and security and noted that the Organization must never again be crippled in its execution of its mandate of maintaining

⁵⁷ For detailed analysis of ethnicity as an internationalizing agent, see M. Mwagiru, op cit (fn 2), pp. 65-66

⁵⁸ R. Brubaker and D. D. Laitin, op cit (fn. 12), p.424

⁵⁹ R. Bazenguissa-Ganga, 'The Spread of Political Violence in Congo-Brazzaville', *African Affairs*, Vol. 98, No. 390 (Jan., 1999), pp. 37-54:38

international peace and security as it was during the Cold War.⁶⁰ Boutros-Ghali noted that since the establishment of the UN in 1945, over 100 major conflicts around the world claimed the lives of 20 million people and blamed the deaths on vetoes by permanent UN members who rendered the Organization powerless.⁶¹ He acknowledged the UN Security was disabled by circumstances revolving around US-Soviet rivalry but noted that in the post Cold War period it 'has emerged as a central instrument for prevention and resolution of conflicts and for the preservation of peace'.⁶²

The high hopes were justified. In late 1980s Cold War rivalries, United States of America and Soviet Union, had started showing renewed interest in the activities of the UN.⁶³ The USSR began making payments on its debt of over \$ US 200 dollars to the UN in 1987 while in 1988 US President Ronald Reagan, a critic of the UN, altered his public stance and praised the work of the UN and declared at the UN General Assembly that the Organization has the opportunity to live, breathe and work as never before.⁶⁴

The hopes and aspirations of a peaceful world as enthused by Boutros-Ghali have been shattered by countless protracted civil wars, majority with their roots in the Cold War period. The number of inter-state wars has reduced in the post Cold War period while intra-state wars have increased tremendously (See Figure 1.1)

⁶⁰ B. Boutros-Ghali, *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peacekeeping* (New York: UN Department of Public Information, 1992), p.1-2

⁶¹ Ibid p. 6

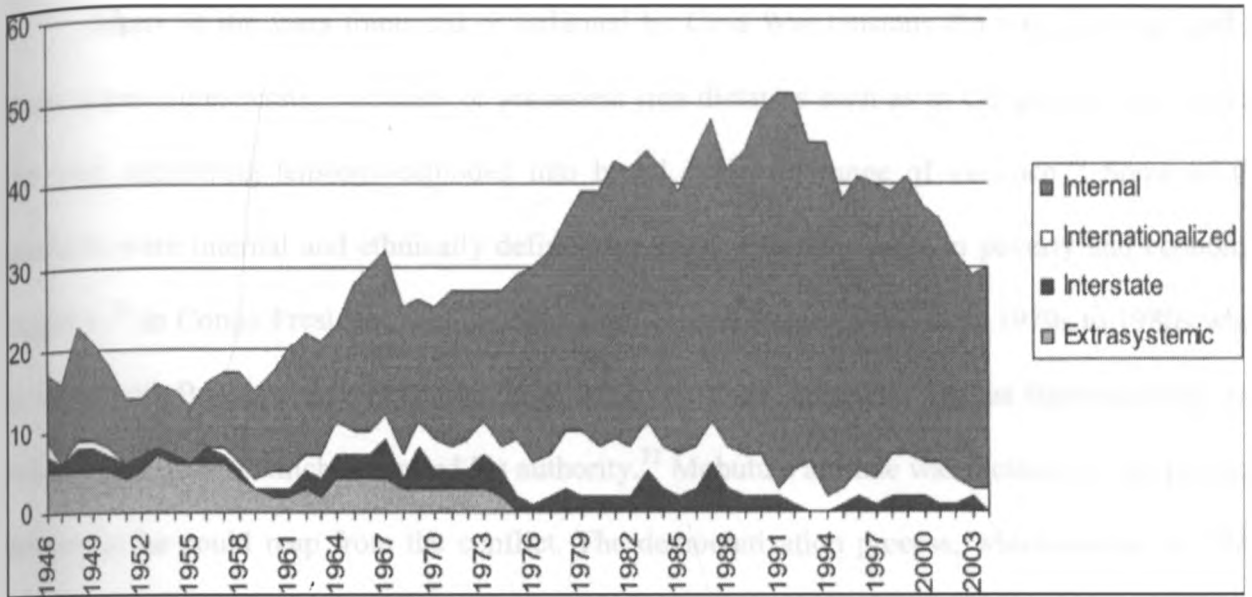
⁶² Ibid p. 7

⁶³ T. G. Weiss et al, *The United Nations and Changing World Politics*, 5th Edition (Cambridge: Westview Press, 2007),

p. 45

⁶⁴ Ibid

Figure 1.1: Number of Armed Conflicts by Type, 1946-2004



Source: Adapted from L. Harbom & P. Wallensteen, 'Armed Conflict and its International Dimensions, 1946-2004', *Journal of Peace Research*, Vol. 42, No. 5 (Sep., 2005), pp. 623-635: 626

Inter-state conflict occur between two or more states while internal conflicts occur between the government of a state and internal groups or between internal groups themselves without intervention of outside forces.⁶⁵ Internationalized conflict occurs when there is outside intervention of an internal conflict.⁶⁶ Extra-systemic conflict occurs between a state and a non-state group outside its own territory.⁶⁷ A total of 228 armed conflicts have been recorded after World War II and 118 after the end of Cold War until 2004 with vats majority of them having been fought within

⁶⁵ N. P. Gleditsch *et al*, 'Armed Conflict, 1946-2001: A New Dataset', *Journal of Peace Research*, Vol.39, No.5 (Sep., 2002), pp.615-637: 619

⁶⁶ *Ibid*

⁶⁷ *Ibid*

states.⁶⁸ However a little over one-fifth of the internal conflicts are internationalized in the sense other states contribute troops to the conflict.⁶⁹

Many of the wars fomented or inflamed by Cold War tensions did not disappear and in areas where bureaucratic socialists or armament rich dictators such as in Congo and Yugoslavia, the long simmering tensions exploded into brutal cycles of range of violence.⁷⁰ Some of the conflicts were internal and ethnically defined but most with their roots in poverty and economic inequity.⁷¹ In Congo President Mobutu Sese Seko caused ethnic hatred from 1970s to 1980s when he sided with Banyarwanda, encouraging anti-Banyarwanda sentiments against Banyamulenge and other ethnic groups which contested his authority.⁷² Mobutu's attitude was dictated by the political advantage he could reap from the conflict. The democratization process, which started in 1990, ignited an already tense situation, as local groups, now a minority in North Kivu, feared that the democratic game would isolate them power and state spoils to the benefit of Banyarwanda⁷³. In early 1993 several clashes between different ethnic groups claimed the live of between 7,000 and 14,000 people and by early 1994 local chief were unable to stop the violence and bring some semblance of peace to the area.⁷⁴ It spiraled into a civil war that toppled President Mobutu and more than 200,000 Rwanda-Hutu refugees killed.⁷⁵

⁶⁸ L. Harbom, L. & Wallensteen, P., 'Armed Conflict and its International Dimensions, 1946-2004', *Journal of Peace Research*, Vol. 42, No. 5 (Sep., 2005), p. 623

⁶⁹ Ibid

⁷⁰ P. Bennis, 'Blue Helmets: For What? Under Whom?', in E. Childers (ed), *Challenges to the United Nations: Building a Safer World* (London: St. Martins Press, 1994), p. 153

⁷¹ Ibid

⁷² K. N. F. Emizet, 'The Massacre of Refugees in Congo: A Case of UN Peacekeeping Failure and International Law', *The Journal of African Modern Studies*, Vol. 38, No. 2 (Jul., 2000) pp.163-202:167

⁷³ Ibid

⁷⁴ Ibid

⁷⁵ Ibid p. 163

1.7 THEORETICAL FRAMEWORK

There are various definitions of theory. Central to most definitions is that theories are frameworks for organizing data.⁷⁶ The word theory is derived from a Greek word pronounced 'theo' which means 'to look at'.⁷⁷ Shiverly⁷⁸ defines theory as a statement linking specific instances to broader perspectives while to Mugenda and Mugenda⁷⁹, a theory is a system of explaining phenomena by stating constructs (concept, abstraction, and idea drawn from the specific) and laws that inter-relate these constructs to each other. Theories serve two distinct purposes, that is, to solve problems or explain the origin of social and power relations and how and whether they might be in the process of changing.⁸⁰

Theories cut across all disciplines contributing to their body of knowledge. Hoffman defines contemporary theory of international relations as a systematic study of observable phenomena that tries to discover the principle variables to explain behavior and to reveal the characteristic type of relations among national units.⁸¹ Theories in international relations are reservoirs of information on key three stages in the development of the discipline, that is, traditional (realism and idealism), behavioral and post behavioral (inter-paradigm debate). According to Banks⁸², to seek an understanding of international relations is to take part in a competing set of ideas which seek to find out what ought to be the most appropriate theory of international relations. The starting point for contemporary theorizing about global power

⁷⁶ R. Bruce & H. Starr, *World Politics: The Menu for Choice* (New York: W. H. Freeman and Company, 1989), p. 33
⁷⁷ T. A. Coulombis & J. H. Wolfe, *Introduction to International Relations: Power and Justice* (New Jersey: Prentice Hall inc., 1986), p. 89
⁷⁸ W. P. Shiverly, *Power and Choice: An Introduction to Political Science*, Fifth Edition (New York: Mcgraw Hill Companies inc., 1997), p. 16
⁷⁹ O. M. Mugenda & A. G. Mugenda, *Research Methods: Quantitative and Qualitative Approach* (Nairobi: Africa Centre for Technology Press, 1999), p. 6
⁸⁰ J.T. Sinclair & W. R. Cox, *Approaches to World Order* (Cambridge: Cambridge University Press, 1960), p. 85
⁸¹ T. A. Coulombis & J. H. Wolfe, op cit (fn), p. 29
⁸² M. Banks, 'The Evolution of International Relations Theory', in M. Banks (ed), *Conflict in World Society: A New Perspective in International Relations* (Brighton: Wheatsheaf Books, 1984), pp. 9-10

relations is the realist tradition. International relations as an academic discipline grew out of realism which was the dominant theory before World War I. The realism approach is based on the assertion that the study of international relations is primarily concerned with inter-state relations.⁸³ It was the failure of the idealists to anticipate and prevent the World War II that gave rise to the re-emergence of realism in the post war period in 1945⁸⁴ and the replacement of League of Nations with the United Nations signifying the will of member-states to act in concert under collective security doctrine to ensure international peace and security prevails.

Traditionalism dominated the first-half century of academic international relations throughout both the liberal and realist phases but in 1970s the second great debate of the discipline emerged.⁸⁵ Unlike the longstanding realist-liberal debate, the new exchanges focused on methodology rather than upon ideas and it was an attempt to replace both classical and traditional orientations by scientific method.⁸⁶ The post behavioral phase consisted of confrontations between opposing perspectives (inter-paradigm debate), namely, multi-centric (pluralist), state-centric (realist) and global-centric (structuralist). Pluralism aims at the behavior of all politically significant groups in world society including non state actors like ethnic groups whereas realism confines itself to the behavior of states. Structuralism is designed to explain global class formation in terms of income and wealth as well as political power. These perspectives or theories of international relations have conflict management arms. Strategist is conflict management arm of realism whereas conflict researcher and peace researcher are conflict management arms of pluralism (world society) and structuralism respectively.⁸⁷

⁸³ J. Burton & F. Dukes (ed), *Conflict: Reading in Management and Resolution* (London: Macmillan, 1990), p. 71

⁸⁴ Ibid

⁸⁵ M. Banks, op cit (fn. 82), pp. 9-10

⁸⁶ Ibid p. 9

⁸⁷ For detailed analysis of theories of international relations and their conflict management arms, see Gloom, A. J. R., 'Paradigms in Conflict: The Strategist, the Conflict Researcher and the Peace Researcher', in J. Burton and F. Dukes (eds), *Conflict Readings in Management and Resolution* (London: Macmillan, 1990), pp.71-95

As far as politicized ethnic conflict management is concerned interest group theory of government, peace research and human needs theory are the most relevant theories. Interest group theory of government explains the tendency by political elites to outbid each other in pursuit of leadership by using political parties to marshal ethnic support. This leads to ethnic violence as elections are turned into ethnic competition and a win-lose game where ethnic groups which fail to vote one of their own in top leadership position are doomed to economic marginalization until the next election. Those who succeed to vote one of their own to top leadership are perceived to enjoy government favours in resource allocation and government appointments. Kimenyi⁸⁸ accounts for Africa's political instability to increased interest group competition for the benefits of governmental power.

The interest group theory of government as applied to ethnic groups assumes that ethnic groups as permanent interest groups attempt to maximize the wealth transferred to them by the government but because governments do not create wealth, such transfers must be taken from other groups implying the transfer-seeking behavior is a zero-sum game.⁸⁹ Kimenyi argues that a leader's action of redistributing income from other groups to members of his or her own group creates dissatisfaction amongst the other groups increasing their hostility towards the beneficiaries of wealth transfer.⁹⁰ The interest group theory of government explains the political posturing by various ethnic groups in Kenya to have one of their own occupy the presidency with the assumption that having one of their own at the top will guarantee them favours at the expense of the other ethnic groups.

⁸⁸ M. S. Kimenyi, 'Interest Groups, Transfer Seeking and Democratization: Competition for Benefits of Governmental Power May Explain Africa Political Instability', *American Journal of Economics and Sociology*, Vol. 48, No. 3 (Jul., 1989), pp.339-349:339

⁸⁹ Ibid p. 342

⁹⁰ Ibid

Peace research paradigm calls for the elimination of structures responsible for causing conflict. Peace researchers categorize peace into positive and negative. Positive peace is achieved when settlement approaches and their associated power games are used in management of conflicts whereas positive peace is the outcome of resolution mechanisms geared towards eliminating structures responsible for the conflict. Galtung⁹¹, one of the leading peace researchers, argue that for sustainable peace or positive peace to be achieved, there is need to go beyond physical or overt violence and deal with anomalous structures which lead to structural violence and with time manifest into physical violence. Structural violence which can arise from anomalous legal, social, or social economic structures in society exists in those conditions in which human beings are influenced so that their actual somatic and mental realizations are below their potential realizations.⁹²

Structural violence denies people their ability to meet their human needs. Human needs are essentially the needs associated with development, identity, and recognition.⁹³ Human needs theorists such as Burton posit that no phenomenon that can accurately be labeled international conflict that is not spill over of domestic system failings and domestic politics whose manifestations reflect failure to satisfy human needs.⁹⁴ The study will use the theory to explain how politicized ethnic conflicts can be prevented and managed by satisfying individual needs of human development, identity, and recognition in addition to basic needs of food, shelter and security. The actor in politicized ethnic conflicts is not states but individuals coalescing around ethnic groups and political parties. Human needs theory departs from the traditional realist school

⁹¹ J. Galtung, 'Violence, Peace, and Peace Research, *Journal of Peace Research*, Vol. 6, No.3. (1969), p. 183

⁹² Ibid

⁹³ J. W. Burton, 'World Society and Human Needs', in M. Light & A. J. R. Groom (eds), *International Relations: A Handbook of Current Theory* (London: Frances Pinter Publishers, 1985), p. 53

⁹⁴ Ibid p. 52

and its strategist approach in management of conflicts. Realists like Morgenthau⁹⁵ argue that states are the main actors in international relations and the world is anarchical due to the evil nature of humankind. Non state actors like ethnic groups and political parties in realism school of thought are considered to be of little consequence since, ultimately, they are controlled by states and more fundamental is that the primary concern of realist school is power politics.⁹⁶

1.8 HYPOTHESES

- (a) The more the degree of competition of political parties for power the more the politicization of ethnic conflicts
- (b) The extent to which deterrence measures are used determines the potential for politicization of ethnic conflicts
- (c) The higher the number of registered political parties the higher the intensity of politicized ethnic conflicts
- (d) The lower the satisfaction of individual human needs the greater the potential for politicized ethnic conflicts

1.9 METHODOLOGY OF THE RESEARCH

The study uses descriptive research design to examine the politicization of ethnic conflicts in the post Cold War period and the approaches used to manage politicized ethnic conflicts.

More than one method of data collection is used to benefit from advantages of triangulating data collection methods. This is because each method of data collection has certain unique advantages but also some inherent limitations. The study therefore relied on primary and

⁹⁵ H. J. Morgenthau, *Politics Among Nations: The Struggle for Power and Peace*, 6th edition (New Delhi: Kalyani Publishers, 1985), pp. 31-34

⁹⁶ A. J. R., Gloom, 'Paradigms in Conflict: The Strategist, the Conflict Researcher and the Peace Researcher', in J. Burton and F. Dukes (eds), *Conflict Readings in Management and Resolution* (London: Macmillan, 1990), pp. 72-73

secondary data. Secondary data was obtained from books, scholarly journals, government reports, Acts of Parliament, and internet sources. Primary was obtained through questionnaires. Semi-structured questionnaires were used. Available samples, a non probability sampling design, were used to get a representative sample of 45 Kenyans drawn from different ethnic groups. 'Drop-and-pick later' method of administering the questionnaire will be used. Out of the 45 questionnaires 34 were returned on time fully completed by the respondents.

1.10 SCOPE AND LIMITATIONS OF THE STUDY

Although a conflict is a function of many factors such as socio-economic, cultural, religious, and territorial, the study concentrates on politicization of ethnic conflicts by political parties. Due to the limitation of time the study cannot examine in detail the management of politicized ethnic conflicts in many countries. It mainly focuses on Kenya. The study focuses mainly on inter-ethnic violence. Intra-ethnic violence and transnational violence are beyond its scope.

Ethnic conflicts are not a new phenomenon in the post Cold War period. They were there even before the outbreak of the Cold War. However, the study focuses on the period between 1991 and 2008. The choice of the period is deliberate. Political pluralism in post Cold World period made politicization of ethnic conflicts tenable as political elites eyed top leadership positions. It is in 1991 that politicization of ethnic conflicts reached their peak in Kenya and in 2008 a civil war was in the offing. The international community saved the situation.

1.11 CHAPTER OUTLINE

Chapter One will consist of the Introduction and Background Information to the Research Problem, Statement of the Research Problem, Objectives of the Research, Justification of the Research Problem, Literature Review, Theoretical Framework, Hypothesis, Methodology of the Research, Scope and Limitations of the Research, and Chapter Outline.

Chapter Two: Politicization of Ethnic Conflicts in Kenya 1991-2008

The chapter traces the creation of structural violence pitting ethnic groups in Kenya to colonial period and analyses anomalous legal and constitutional structures inherited from colonial powers. Secondly, it analyses the manifestation of the structural violence into physical violence in the period preceding 1992, 1997, and 2007 general elections and thereafter.

Chapter Three: Internal Management of Politicized Ethnic Conflicts in Kenya, 1991-2008

The chapter examines the use of force by the government to crackdown on agitators for multipartyism. It analyses the role played by provincial administration and politicians in perpetrating ethnic clashes.

Chapter Four: International Management of Kenya's 2007 Post Election Violence

The chapter first analyzes UN's pacific settlement methods of conflicts and peace enforcement measures. Secondly it examines the use of leverage by internal and international actors to pressure PNU's President Mwai Kibaki and ODM's Raila Odinga to enter into negotiations and reach accommodation on the four agendas which formed part of the negotiation process.

Chapter Five: Summary, Conclusion and Recommendations

CHAPTER TWO

2.1 POLITICIZATION OF ETHNIC CONFLICTS IN KENYA, 1991-2008

One of the most profound legacies of the colonial government has been ethnic conflict.⁹⁷ The demise of colonial rule transformed former colonies into some of the most ethnically fragmented states in the world.⁹⁸ However, the forms and frequency of ethnic conflict have not been uniform across all states. Some states disintegrated under the weight of ethnic fragmentation. For example Yugoslavia which experienced no durable and convincing construction of a state based on ethnic consensus since it attaining statehood in 1918 collapsed in 1991.⁹⁹ Other states like Rwanda, Sudan and Burundi have been torn by frequent instances of communal violence between ethnic groups while others have been confronted by low level but protracted separatist revolts by ethno regional minorities, for example, the Eritrean secession in Ethiopia.¹⁰⁰

Some countries have remained relatively free of violent ethnic conflicts like Tanzania. Tanzania's ruling party Chama Cha Mapinduzi (CCM) and the government regard ethnicity in Tanzania as a phenomenon that has been completely managed.¹⁰¹ However, Mpangala argues that ethnicity in Tanzania has not been completely managed as struggle for national resources has begun to take the form of ethnic competition as well as ethnic conflict.¹⁰² He gives an example whereby new political parties have begun to propagate a struggle of indigenous Tanzanians against Asians or Tanzanians of Indian and Arabic origin, that is, an ideology of *Walalahoi* (connotes a class of the poor people mainly indigenous Africans) and *Magabacholi* (connotes a class of rich

⁹⁷ R. G. Blanton et al, 'Colonial Style and Post-Colonial Ethnic Conflict in Africa', *Journal of Peace Research*, Vol. 38, No. 4 (Jul., 2001), pp. 473-491:473

⁹⁸ Ibid

⁹⁹ G. Schopflin, 'The rise and fall of Yugoslavia', in J. McGarry & B. O'leary (ed), *The Politics of Ethnic Conflict Regulation: Case Studies of Protracted Ethnic Conflicts* (London: Routledge, 1993), p. 172

¹⁰⁰ R. G. Blanton et al, op cit (fn. 97), p. 473

¹⁰¹ G.P. Mpangala, 'Inter-Ethnic Relations in Tanzania', in O. Nnoli, *Ethnic Conflicts in Africa* (Dakar: CODESRA, 1998), p. 311

¹⁰² Ibid

people mainly Asians, Arabs and Indians) reflecting indigenous Tanzanians versus Asians respectively has begun to emerge and is taking conflictual dimension.¹⁰³

In most developing countries ethnicity has remained a central element of political parties' mobilization strategy since their independence and in the multiparty era it has remained the dominant identity around which political parties are not only formed, but also through which they seek membership and mobilize supporters.¹⁰⁴ Ethnic cleavages are among the cleavages most likely to generate political parties and to organize political competition in multi-ethnic societies.¹⁰⁵

Eldersveld¹⁰⁶ defines a political party as a social group, a system of meaningful and patterned activity within the larger society which consists of a set of individuals performing specific roles and behaving as member-actors of a bounded and identifiable social unit. The Kenya's Political Parties Act, 2007¹⁰⁷, defines a political party as

any association or organization of persons which has for its objects or purposes or one or more of its objects or purposes the proposing or supporting of candidates for national or local authority elections, with a view to forming or influencing the formation of the Government of Kenya or any local authority within Kenya.

The number of registered political parties has been increasing every election year. An upsurge in registration of parties is experienced in the eve of elections during nominations. In an attempt to secure party tickets candidates who lose out in party nominations register their own parties. From about 10 registered political parties in 1992 general elections the number grew to approximately 168 in 2007. Most of the political parties do not sponsor candidates either in presidential,

¹⁰³ Ibid

¹⁰⁴ A. Oloo, 'Party Mobilization and Membership: Old and New Identities in Kenyan Politics', in K. Kanyinga & D. Okello (eds), *Tensions and Reversals in Democratic Transitions: The Kenya 2007 General Elections* (Nairobi: Society for International Development (SID)/Institute for Development Studies (IDS), University of Nairobi, 2010), p. 37

¹⁰⁵ D. L. V. Cott, 'Institutional Change and Ethnic Parties in South America', *Latin America Politics and Society*, Vol. 45, No. 2 (Summer, 2003), pp. 1-39:1

¹⁰⁶ S. J. Eldersveld, 'A Theory of Political Party', in William E. Wright, ed, *A Comparative Study of Party Organization* (New York: Charles E. Merrill Publishing Co., 1971), pp. 73-83:73

¹⁰⁷ See interpretation of terms in the Political Parties Act, 2007

parliamentary or civic elections. Only about 10 political parties have been sponsoring candidates in presidential elections. Primary data collected through a questionnaire had 79.4 per cent say that they did not know how many political parties there are in Kenya (See Table 2.6).

Political parties amplify ethnic conflicts/differences arising out of anomalous legal, constitutional and institutional structures. Primary data collected through a questionnaire had 52.9 per cent of the respondents agreed to a large extent that the higher the number of political parties the higher the intensity ethnic clashes whereas 20.6 per cent of the respondents agreed to a less extent. Similar number of respondents agreed to a moderate extent while 5.9 per cent were of the opinion that high number of political parties does not intensify ethnic conflicts (See Table 2.6). As to how many political parties Kenya should have, 55.9 per cent of the respondents chose between two and three parties and 23.5 per cent of the respondents chose more than four parties while 20.6 per cent of the respondents did not respond to the question. Respondents who chose between two and three parties reasoned out many political parties encourage ethnic politics and few parties will guarantee good leadership and governance.

Table 2.6: Political parties and ethnic violence

Question	Response	Frequency	Per Cent
Politicians in Kenya campaign along ethnic lines	Not at all	0	0
	To a less extent	3	8.8
	To a moderate extent	13	38.2
	To a large extent	16	47.1
	No response	2	5.9
	TOTAL	34	100
The 2007 presidential campaigns were ethnically-driven	Not at all	1	2.9
	To a less extent	3	8.8
	To a moderate extent	9	26.5
	To a large extent	21	61.8

	No response		
	TOTAL	34	100
Introduction of multipartyism in 1991 is to blame for ethnic clashes	Not at all	7	20.6
	To a less extent	13	38.3
	To a moderate extent	10	29.4
	To a large extent	3	8.8
	No response	1	2.9
	TOTAL	34	100
Use of force by police intensifies ethnic violence	Not at all	9	26.5
	To a less extent	7	20.6
	To a moderate extent	8	23.5
	To a large extent	10	29.4
	No response		
	TOTAL	34	100
The higher the number of political parties the higher the intensity ethnic clashes	Not at all	2	5.9
	To a less extent	7	20.6
	To a moderate extent	7	20.6
	To a large extent	18	52.9
	No response		
	TOTAL	34	100

Source: Research data

Political Parties Act was enacted in 2007 to create order in registration and running of political parties. It came into force in June 2008 and registered political parties were required to seek fresh registration. One of its main objectives was to ensure political parties are not formed on ethnic grounds.¹⁰⁸ The implementation of the Act saw the registered political parties whittle down to 47 by the end of 2008 (See Appendix III for the list of registered political parties as at December, 2008).

¹⁰⁸ See Republic of Kenya, Article 14, Clause 1 (a), The Political Parties Act

2.2 Structural Violence and Ethnic Politics in Kenya

Structural violence exists in those conditions in which human beings are influenced so that their actual somatic and mental realizations are below their potential realizations.¹⁰⁹ It can arise from anomalous legal, social, or economic structures in society. Exponents of structural violence led by Galtung reject the dichotomy of peace and war and argue that the society can be in neither a state of peace nor war. In this situation there is no physical violence yet there is no peace. A society in this condition experiences negative peace or 'unpeaceful' moment and the potential realizations of its members is impeded by the anomalous structures. A society experiencing neither structural violence nor physical violence is said to be in a state of positive peace. Structural violence manifests into physical violence. In Kenya leaders and their political parties have been capitalizing on structural violence (anomalous structures) and ethnic diversity to advance their political ambitions.

In Kenya structural violence is rooted in socio-economic injustices of landlessness, joblessness and poverty. Land problem has its roots in colonial era. For most of the colonial period land in the native reserves continued to be vested in tribes, clans and kinship groups and their birth right of access to land was guaranteed.¹¹⁰ The introduction of individual land tenure in 1950s, and which was continued by the independent government, not only created a problem of landlessness for those who did not get titles it also made former tribal or clan land which was inaccessible to outsiders, liable to pass by private sales into ownership of people outside the tribe.¹¹¹ The colonial government alienated most of the agriculturally productive land for settler agriculture particularly in Rift Valley and Central provinces. The alienation generated a large number of squatters

¹⁰⁹ J. Galtung, op cit (fn. 91), p. 183

¹¹⁰ K. Murungi, *In the Mud of Politics* (Nairobi: Acacia Stantex publishers, 2000), p. 167

¹¹¹ Ibid

especially among the Kikuyu.¹¹² After independence the alienated land did not revert to their original owners as per the wishes of the Mau Mau fighters but it was acquired by individuals and companies on a willing-seller-willing-buyer basis.¹¹³ In Rift Valley, Kalenjins who are the dominant ethnic group argue that their land was parceled out to Kikuyus and other groups whom they view as outsiders.¹¹⁴

Poverty and joblessness have been a big challenge in Kenya. In an ethnically plural and poor country such as Kenya whose majority of the youth is jobless, the task of nation-building is faced with challenges of balancing aspirations and managing fear of various ethnic groups.¹¹⁵ The highly centralized executive control worsens the situation as the holder is perceived rightly or wrongly to favour his ethnic kin. Over the years there has been political posturing by various ethnic groups to have one of their own occupy the presidency to benefit from resource allocation. The assumption is that having one of their own at the top will guarantee them favours at the expense of the other ethnic groups. Muriuki¹¹⁶ argues that during Kenyatta's tenure, Kikuyu dominated political and economic life of Kenya. He argues that the patronage system ensured that a word from Kenyatta opened doors to his kinfolk in corridors of power.¹¹⁷ A study carried out by Kimenyi and Shughart II¹¹⁸ shows that during the first seven years (1975-1985) of President Daniel Arap Moi's leadership, there was rapid increase in government spending as President Moi created job vacancies for his kinfolk. Under his leadership there was substantive effort to redirect

¹¹² On the Brink of the Precipice: A Human Rights Account of Kenya's Post-2007 Election Violence (Nairobi: KNHRC, 2008), p. 17

¹¹³ Ibid

¹¹⁴ Republic of Kenya, Report of the Commission of Inquiry into the 2007 Post Election Violence, 2008, p.32

¹¹⁵ B. Sihanya & D. Okello, 'Mediating Kenya's Post-Election Crisis: The Politics and Limits of Power Sharing', in K. Kanyinga & D. Okello (eds), *Tensions and Reversals in Democratic Transitions: The Kenya 2007 General Elections* (Society for International Development (SID) / Institute for Development Studies (IDS), 2010), p. 659

¹¹⁶ G. Muriuki, 'Central Kenya in the Nyayo Era', *Africa Today*, Vol. 26, No. 3, Kenya After Kenyatta (3rd Qtr., 1979), pp 39-42:39

¹¹⁷ Ibid p. 40

¹¹⁸ M. S. Kimenyi & W. F. Shughart, 'Political Successions and the Growth of Governments', *Public Choice*, Vol. 62, No. 2 (Aug., 1989), pp. 173-179: 177

the flow of resources from Central Province inhabited by the Kikuyu ethnic group to non Kikuyu regions of the Rift Valley and to some extent Western Province.¹¹⁹ Moi also drastically reduced Kikuyu dominance in public sector as evidenced by recruitment of permanent secretaries which is the most influential position in the civil service.¹²⁰

Table 2.1: Regional Imbalances in Recruitment of Permanent Secretaries During Kenyatta and Moi Leadership

Ethnic Group	Kenyatta Regime			Moi Regime						
	1966	1970	1978	1979	1982	1985	1988	1994	1998	2001
Kikuyu	30%	38%	24%	30%	30%	28%	22%	25%	11%	9%
Luhya	13%	8%	5%	11%	13%	12%	6%	14%	11%	13%
Luo	13%	13%	10%	4%	7%	8%	13%	4%	7%	9%
Kalenjin	4%	8%	5%	11%	10%	20%	22%	25%	29%	35%
Kamba	17%	8%	14%	7%	10%	12%	13%	21%	4%	4%
Kisii	4%	8%	0%	7%	3%	4%	3%	4%	7%	4%
Meru	4%	8%	14%	11%	10%	8%	3%	4%	7%	9%
Miji Kenda	9%	4%	10%	4%	7%	4%	6%	11%	14%	13%
Other	4%	4%	19%	15%	10%	4%	13%	7%	11%	4%
Total	23	24	21	27	30	25	32	28	28	23

Source: Adapted from K. Kanyinga, 'Governance, Institutions and Inequality', in Society for International Development (ed), *Reading in Inequality in Kenya: Sectoral Dynamics and Perspectives* (Nairobi: Society for International Development, 2006), pp. 385-386

The interest group theory of government best captures the ethnic competition for power in Kenyan elections whereby ethnic political parties are used as instruments for attaining high office and guaranteeing wealth transfer.

¹¹⁹ A. Omolo, 'Devolution in Kenya: A Critical Review of Past and Present Frameworks', in A. K. Mwenda (ed), *Devolution in Kenya: Prospects, Challenges and the Future* (Nairobi: Institute of Economic Affairs, 2010), p. 22

¹²⁰ Ibid

Kimenyi¹²¹ accounts for Africa's political instability to increased interest group competition for the benefits of governmental power. The interest group theory of government as applied to ethnic groups assumes that ethnic groups as permanent interest groups attempt to maximize the wealth transferred to them by the government but because governments do not create wealth, such transfers must be taken from other groups implying the transfer-seeking behavior is a zero-sum game.¹²² Kimenyi argues that a leader's action of redistributing income from other groups to members of his or her own group creates dissatisfaction amongst the other groups increasing their hostility towards the beneficiaries of wealth transfer.¹²³ Ethnic competition for state power has led to recurrent genocide as witnessed in Rwanda and Burundi in 1960s with the most serious in 1990s.¹²⁴ Ethnic competition has also led to multiple systematic massacres such as Acholi and Lango under Amin in Uganda, and of the inhabitants of Amin's home region in northwestern Uganda under Obote; of the FRELIMO-affiliated groups of Rhodesian and South African supporters of RENAMO; of Ndebele by the Shona-dominated government in Zimbabwe; and of African National Congress (ANC) supporters by Inkatha in South Africa's Natal Province and vice versa.¹²⁵ Ethnic competition for power in Kenya's 1992, 1997 and 2007 general elections cost lives with the worst being the 2007 elections.

2.3 Political Parties and Ethnic Competition for Power

The ethnic relations that existed during the pre-colonial period were mutually beneficial and helped to neutralize potential rivalry and conflict, for example among the highland Bantu

¹²¹ M. S. Kimenyi, 'Interest Groups, Transfer Seeking and Democratization: Competition for Benefits of Governmental Power May Explain Africa Political Instability', *American Journal of Economics and Sociology*, Vol. 48, No. 3 (Jul., 1989), pp.339-349:339

¹²² Ibid p. 342

¹²³ Ibid

¹²⁴ A. A. Weinreb, 'First Politics, Then Culture: Accounting for Ethnic Differences in Demographic Behaviour in Kenya', *Population and Development Review*, Vol. 27, No. 3 (Sep., 2001), pp. 437-467: 455

¹²⁵ Ibid

notably the Kikuyu, Kamba, Meru and Embu; trade, marriage and patronage knew no confine.¹²⁶ However, in the colonial period, divide and rule politics was build around manipulation of ethnic differences and it planted the seeds of inter-ethnic exploitation, suspicion, and animosity.¹²⁷ In Kenya the formation of ethnic groupings started in 1920s under the British colonial policy framework which restricted the political associations within the borders of ethnically defined administrative districts.¹²⁸ The British banned all nation-wide African political parties and encouraged district political parties.¹²⁹ This was part of their divide and rule tactic whose objective was to divide the Africans so that they could easily be manipulated and ruled by the unpopular colonial government.¹³⁰ The colonial government feared that if the Africans formed nation-wide political parties it would heighten political consciousness and this would lead to rebellion or revolution against them.¹³¹ Any attempt, therefore, to form a national party was met by resistance.

The first political party in Kenya which was also the first Kikuyu nationalist organization, Young Kikuyu Association (YKA) was established in 1921, headed by Harry Thuku and drew membership from Kikuyu ethnic group.¹³² In Maasai land, there was the Maasai Association established in October 1931 with its concern being land¹³³ which was also the force behind the

¹²⁶ W. O. Oyugi, 'Ethnic Conflicts in Kenya', in O. Nnoli (ed), *Ethnic Conflicts in Africa* (Dakar: CODESRIA, 1998), p. 289

¹²⁷ F. Jonyo, 'The Centrality of Ethnicity in Kenya's Political Transition', in W. O. Oyugi, P. Wanyande & C.O. Mbai (eds), *The Politics of Transition in Kenya: From KANU to NARC* (Nairobi: Heinrich Boll Foundation, 2003), p. 159

¹²⁸ Ibid

¹²⁹ J. Kimani, 'Kenya's Rocky Road to Independence', *Africa Today*, Vol. 10, No. 10, East Africa in Transition (Dec., 1963), pp. 4-6+10:5

¹³⁰ P. Wanyande, 'The Politics of Alliance Building in Kenya: The Search for Opposition Party', in W. A. Oyugi, P. Wanyande & C. O. Mbai (ed), *The Politics of Transition in Kenya: From KANU to NARC* (Nairobi: Heinrich Boll Foundation, 2003), p. 146

¹³¹ Ibid

¹³² Ibid

¹³³ K. J. King, 'A Bibliography of Molonket Olororinya Ole Sempole', in K. J. King & A. Salim (ed), *Historical Bibliographies* (Nairobi: Department of History, 1971), p. 23

formation of Ugenya Kager Luo Clan Association (UKA) in Nyanza in 1932.¹³⁴ The end of World War II saw renewed and increased African agitation but again the intensity of political consciousness and activity was very uneven.¹³⁵ KCA transformed itself into Kenya African Union (KAU) in 1944 and Jomo Kenyatta became its president in 1947.¹³⁶ The 1950s saw the banning of KAU which was the only countrywide political organization and its replacement with parochial and ethnic-based district political associations.¹³⁷

The ban on formation of territorial political organization was lifted during Lancaster conference in 1960¹³⁸ and this came at a time when Kenya's body politic was already ethnicised. Post-independent Kenyan leaders, who were ethnic regional party leaders, had been accustomed to ethnic regional parties. They squandered the first opportunity to nationalize politics by embracing political parties drawing support from all ethnic groups. The first two independent political parties were a coalition of ethnic groupings struggling to be recognized countrywide. Kenya African National Union (KANU), which was predominantly Kikuyu ethnic group affair with minimal Luo support, was established in March 1960 at Kiambu and was viewed by regional parties from smaller ethnic groups as an elevation of Kenya African Union (KAU) into a national party.¹³⁹ Five regional parties formed along ethnic lines responded by ganging up against KANU and launched Kenya African Democratic Union (KADU) in June 1960 and as politicization of ethnic groups proceeded, the ethnicization of politics became the norm.¹⁴⁰ The five were the Maasai United Front

¹³⁴ B. A. Ogot, 'Reverent Alfayo Odongo Mango', in K. J. King & A. Salim (ed), *Historical Bibliographies* (Nairobi: Department of History, 1971), p. 23

¹³⁵ C. J. Gertzel, 'The Political Legacy', in C. J. Gertzel, M. Goldschmidt & D. Rothchild, *Government and Politics in Kenya* (Nairobi: East Africa Publishing House, 1969), p. 2

¹³⁶ *Ibid*

¹³⁷ B. A. Ogot, *op cit* (fn. 134), p. 23

¹³⁸ D. Rothchild, *op cit* (fn.), p.2

¹³⁹ *Ibid*

¹⁴⁰ *Ibid*

(MUF), the Kalenjin Political Alliance (KPA), the Coast African Political Union (CAPU), Somali National Association (SNA), and the Kenya African People Party (KAPP).¹⁴¹

KANU and KADU represented divergent ethnic interests and its leaders failed to address ethnic diversity in Kenya before the attainment of independence. To sort out ethnic rivalry in KANU and KADU, the Colonial Secretary in October 1961 convened a conference in London that led to a reluctant acceptance to the framework of a constitution and to the formation of a national coalition government with KANU's Jomo Kenyatta being the Minister for Constitutional Affairs and Economic Planning while KADU's Ronald Ngala became Constitutional Affairs and Administration minister.¹⁴² KADU favoured federal government or *Majimbo*, as it was popularly recognized, to safeguard the political and economic interests of its membership of minority ethnic groups.

The small ethnic groups in KANU feared ethnic domination by large ethnic groups in KANU, that is, Kikuyu and Luo and preferred a federal or regional (*Majimbo*) government where each region, or more precisely ethnic group, will have a regional assembly responsible for administration, local resource mobilization and allocation as well as governance.¹⁴³ KANU on the other hand rooted for a centralized system of government. Its main policy focus was on a unitary form of a government established on a liberal foundation and it preferred not to make radical changes likely to undermine the economic stability that had been achieved through settler control of the economy.¹⁴⁴ The *Majimbo* form of government was adopted at independence in line with KADU's demands but was done away with in 1965 after KADU dissolved to enhance 'national

¹⁴¹ Ibid

¹⁴² J. Kimani, op cit (fn. 129), p.6

¹⁴³ K. Kanyinga, 'Limitations of Political Liberalization: Parties and Electoral Politics in Kenya, 1990-1992,' in W. O. Oyugi, P. Wanyande & C. A. Mbai (eds), *The Politics of Transition in Kenya: From KANU to NARC* (Nairobi: Heinrich Boll Foundation, 2003), p. 102

¹⁴⁴ Ibid

unity'.¹⁴⁵ Even with the merger of KANU and KADU ethnic interests were at center stage especially on the appropriate approach to handle the land question.

Kenya's first president, Jomo Kenyatta and his allies argued that land can only be acquired on 'willing-buyer-willing seller' basis while Oginga Odinga and Bildad Kaggia preferred the popular approach of seizing land from colonial settlers and redistributing it to the Africans. Oginga was expelled from KANU in 1966 and teamed up with Ochieng Oneko and Bildad Kaggia among others to form Kenya People's Union (KPU) to advocate for land redistribution among other socialist leaning ideals.¹⁴⁶ The assassination of Tom Mboya in June 1969 worsened the relationship between the government and KPU which was Luo dominated.¹⁴⁷ The differences led to the banning of the party the same year and its leaders detained including Oginga who was placed under house arrest in Kisumu.¹⁴⁸ KANU remained the sole political party despite the fact that the constitution allowed for multiparty politics. With no political party to champion ethnic interests like KADU did before it was banned, ethnic groups started to form welfare organizations. Gikuyu Embu Meru Association (GEMA) was formed in 1971 and registered as a cultural group concerned with the welfare of its members.¹⁴⁹ Other ethnic groups took cue, for example Luo Union Movement (LUM) and Luhya Union were formed to challenge alleged Kikuyu domination of KANU¹⁵⁰.

After Daniel Arap Moi acceded to the presidency in 1978, he began by proscribing the welfare organizations.¹⁵¹ With no room for welfare organizations to fight for ethnic interests, Oginga and George Anyona in 1982 attempted to form an opposition party that was to be named

¹⁴⁵ Ibid

¹⁴⁶ M. Omasa *et al*, *Theory and Practice of Governance in Kenya: Towards Civic Engagement* (Nairobi: University of Nairobi Press, 2006), p. 22

¹⁴⁷ A. Oloo, 'The Contemporary Opposition in Kenya: Between Internal Traits and State Manipulation', in G. R. Murunga & S. W. Nasongo, *Kenya: The Struggle for Democracy* (London: Zed Books Ltd, 2007), p. 97

¹⁴⁸ Ibid

¹⁴⁹ W. O. Oyugi, *op cit* (fn. 126), p.293

¹⁵⁰ Ibid

¹⁵¹ K. Kanyinga, *op cit* (fn. 143), p.102

Kenya African Socialist Union (KASU) inviting the wrath of President Moi who responded by engineering a constitutional amendment making the country a *de jure* one-party state.¹⁵² This political situation persisted with those opposed to the one-party system being incarcerated as others fled the country fearing for their lives. President Moi succumbed to the pressure of multiparty agitators and in December 1991 Section 2A was repealed ushering in multiparty politics.

2.4 Politicization of Ethnic Conflict in Kenya, 1991-2008

The reintroduction of multipartyism in 1991 heralded the dawn of fierce ethnic competition for power. The executive presidential system of government in Kenya coupled with the 'first-past-the-post' electoral system, which reduces electoral politics into a zero-game, has evolved adversarial politics.¹⁵³ In the 'first-past-the-post' electoral system, a win by a candidate is viewed to be a win by his ethnic group and a loss to other candidates and their ethnic kin. The 'first-past-the-post' electoral system institutionalizes the winner-take-all governance and culture.¹⁵⁴ In Kenya aspirations of ethnic groups repose in one of their own capturing the presidency and an electoral loss as an effect of alienating large communities.¹⁵⁵ In Kenya the net effect, like elsewhere in the developing world, is that those eyeing elective posts politicize socio-economic injustices like landlessness, joblessness and poverty inflicting their ethnic kin. When political participation is based on ethnicity, individuals are constrained by culture, language and myths, or territory to have collective position on their political involvement like voting and rioting.¹⁵⁶

¹⁵² A. Oloo, op cit (fn. 147), p.97

¹⁵³ K. Kanyinga, D. Okello & A' Akech, 'Contradictions of Transition to Democracy in Fragmented Societies: The Kenya 2007 General Elections in Perspective', in K. Kanyinga & D. Okello (eds), *Tensions and Reversals in Democratic Transitions: The Kenya 2007 General Elections* (Society for International Development (SID) / Institute for Development Studies (IDS), 2010), p. 6

¹⁵⁴ *Ibid*

¹⁵⁵ *Ibid*

¹⁵⁶ N. Kasfir, 'Explaining Ethnic Political Participation', *World Politics*, Vol. 31, No. 3, (Apr., 1971), pp.365-388:366

Land has been the major divisive factor in multiparty politics. Politicians have used it to advance their goals. For example, the push for reintroduction of multiparty politics was countered by threats from KANU supporters to re-introduce federal (*Majimbo*) government. Political rallies were organized by KANU supporters opposed to multipartyism to drum up support for *Majimbo*. The rallies served as a forum for reigniting historical tensions over land between ethnic groups residing in cosmopolitan areas. The first *Majimbo* rally to counter calls for multipartyism was held in Kapsabet on September 7, 1991.¹⁵⁷ Leaders at the rally issued inflammatory and inciting statements warning of forceful evictions of non-Kalenjins in Rift Valley if multiparty politics was allowed in Kenya. For example Willy Kamuren, the then Baringo North KANU MP is quoted to have said

Let them (agitators for multipartyism) keep quiet or else we are ready for introduction of *Majimbo* whereby every person will be required to go back to his motherland. And once we introduce *Majimbo* in Rift Valley, all outsiders who acquired our land will have to move and leave the same to our children.¹⁵⁸

In the second *Majimbo* rally held on 28th September in Kapkatet, Rift Valley Province, the then Local Government Minister and Narok MP William Ole Ntimama uttered the following regarding the KANU government crackdown on proponents of multipartyism

We have now buried the FORD (Forum for Restoration of Democracy), multiparty politics and the NDP (National Development Party). All the ministers and KANU leaders you see here have resolved to fight together and follow President Moi together ... *Majimbo* was here at the time of independence and was done away with, if *Majimbo* ended multiparty politics should end or else ... we will use *rungus* (machetes), if this will be effective way of ending talk about multiparty. This I have said on this plat form and I am repeating it: The violence of *Saba Saba* (rally) was not a milk drinking party.¹⁵⁹

FORD was the umbrella body which championed for introduction of multipartyism and constitutional reform in late 1980s and early 1990s.

¹⁵⁷ Republic of Kenya, Report of the Judicial Commission Appointed to Inquire into Tribal Clashes in Kenya (Nairobi: Government Printer, 1999), p. 49

¹⁵⁸ *Ibid*

¹⁵⁹ *Ibid*

FORD leaders and members of public who attended the *Saba Saba* rally, which was held on July 7, 1991 by multiparty proponents in defiance of a police ban, were violently dispersed leading to several deaths and injuries. The threats by the Rift Valley leaders came to pass way before the introduction of multipartyism. Ethnic clashes (politicized ethnic conflicts) started on October 29, 1991 at a farm known as Miteitei, Tinderet Division, Nandi District, in Rift Valley Province and pitted the Nandi against Kikuyu, Kamba, Luhya, Kisii and the Luo.¹⁶⁰ By the time the constitution was amended to allow multipartyism the politicized ethnic conflicts had spread to other areas. Among the 47 districts in the country, 12 were affected (See Table 2.2 below and Appendix IV for a Map indicating areas affected by ethnic clashes).

Table 2.2: Affected districts in the 1991/92 ethnic clashes

District	Deaths	Injured	Arrested	Charged	Finalised	Displaced
Trans Nzoia	200	39	296	178	171	12,000
Bungoma	113	70	244	17	1	14,000
Uasin Gishu	159	138	53	50	6	4,000
Kakamega	19	23	36	20	20	*
Nandi/ Kericho	25	*	79	24	*	7,000
Bomet	50	262	110	21	6	10,000
Kisumu	17	*	92	92	33	*
Kisii	25	*	6	6	4	*
Nyamira	8	*	5	5	*	*
Narok	48	22	20	18	2	2,000
Nakuru	114	100	290	*	*	13,000
Total	779	654	1,236	248	243	54,000

*Figures not available

Source: Republic of Kenya, Report on the Parliamentary Select Committee to Investigate Ethnic Clashes in Western and Other Parts of Kenya, 1992, p.85

¹⁶⁰ Ibid p. 59

Several factors served to exacerbate the politicized ethnic conflicts. First the Constitution of Kenya Amendment (No 2) Act 1991¹⁶¹ which entered into force on December 20, 1991 repealing Section 2A of the Constitution caught FORD flatfooted with no plans to form a political party embracing all ethnic groups.¹⁶² Buoyed by the desire to take over power through the ballot in 1992 elections, FORD reacted to its unanticipated victory by transforming itself from a non partisan lobby group into a political party.¹⁶³ FORD's evolution into a political party exposed internal personal rivalries and ethnic tensions that had been previously less pronounced.¹⁶⁴ The leaders of FORD feared that any new president would follow the precedent established by Kenyatta and Moi and employ government power to punish political enemies while rewarding political allies.¹⁶⁵ As a result FORD disintegrated, thus in 1992 presidential elections, there were eight presidential candidates, namely; Daniel Arap Moi (KANU), Oginga Odinga (FORD Kenya), Mwai Kibaki (DP), George Anyona (KSC), Mukaru Ng'ang'a (KENDA), Chibule wa Tsuma (KNC), and Harun Mwau (PICK). The most significant thing about the first multiparty general elections in 1992 was that 30 years after independence, ethnicity was the central focus of political mobilization.¹⁶⁶

While a cross section of Kenyans holds that the introduction of multipartyism is not to blame for politicized ethnic conflicts (ethnic clashes), others believe that politicians campaign on ethnic lines to woo voters. Primary data collected through a questionnaire shows that 20.6 per cent of respondents are of the view that multipartyism is not at all to blame for ethnic clashes which has

¹⁶¹ See Republic of Kenya, Constitution of Kenya Amendment (No 2) Act 1991

¹⁶² Initially FORD was a non partisan group that brought together churches, politicians, lawyers, scholars, and other interested parties to push for introduction of multiparty politics and constitutional reforms.

¹⁶³ M. Kiai, 'Commentary: A Last Chance for Peaceful Change in Kenya', *Africa Today*, Vol. 45, No. 2, The Future of Democracy in Kenya (Apr. - Jun., 1998), pp. 185-192:186

¹⁶⁴ Ibid

¹⁶⁵ Ibid

¹⁶⁶ R. Ajulu, 'The 1992 Kenya General Elections: A Preliminary Assessment', *Review of African Political Economy*, No. 56, Changing Gender Inequalities in Africa (Mar., 1993), pp. 98-102:100

been hitting some parts of Kenya in election years (See Table 2.6). This is compared to 8.8 per cent of the respondents who hold that multipartyism is to a large extent to blame for ethnic clashes.

In 1992 the presidential candidates reduced the elections to an ethnic competition during their campaigns. They rallied support from their kinfolk to gain competitive edge over their political rivals. This was exemplified by the ethnic voting pattern in the 1992 presidential elections where the leading presidential candidates got the bulk of their votes in provinces dominated by their ethnic folk (See table 2.3 below).

Table 2.3: Presidential Votes by Province

Province	Kibaki DP	Matiba FORD - A	Moi KANU	Odinga FORD-K	Others
NAIROBI	69,715	165,553	62,410	75,888	
	18%	44%	16%	20%	2%
COAST	32,201	33,399	188,296	42,796	
	10%	11%	62%	14%	3%
N. EASTERN	3,259	7,188	46,420	5,084	
	5%	11%	72%	8%	4%
EASTERN	392,481	79,436	290,372	13,673	
	50%	10%	37%	2%	1%
CENTRAL	373,147	630,194	21,918	10,668	
	35%	60%	2%	1%	2%
R. VALLEY	98,302	214,727	981,488	75,465	
	7%	16%	71%	5%	1%
WESTERN	14,404	214,060	219,187	98,822	
	2%	38%	39%	17%	4%
NYANZA	51,988	10,299	117,554	581,490	
	6%	1%	15%	75%	3%
Total	1,035,107	1,354,856	1,927,640	903,886	

Source: R. Ajulu, 'The 1992 Kenya General Elections: A Preliminary Assessment', *Review of African Political Economy*, No. 56, Changing Gender Inequalities in Africa (Mar., 1993), pp. 99

Secondly, the Constitution of Kenya Amendment Act 1992 which entered into force on 29th August 1991 served to intensify forceful evictions. The amendment among other things provided

that for a candidate to emerge as a winner of presidential election he or she shall in addition to obtaining the majority of votes cast, also obtain not less than 25 per cent of the valid votes cast in at least five of the eight provinces. In order to be guaranteed the 25 per cent threshold and deny other political parties meeting the requirement, forceful evictions were mounted on minority ethnic groups residing in areas dominated by other ethnic groups. The evicted groups were viewed to be sympathetic to their ethnic presidential candidates.

The ethnic clashes were replayed in 1997 general elections signifying a connection between electioneering period and an upsurge in violence (See Table 2.5 for affected areas and ethnic groups involved in the violence). In the 1997 elections, for example, the Likoni area of Coast Province was hit by a wave of violent clashes ostensibly directed at *watu wa bara* (people from the mainland) with the overall intention was to skew the voting pattern in favour of KANU.¹⁶⁷

Table 2.4: Ethnic voting pattern in the 1997 presidential results

Candidate	Coast	Central	Eastern	Nyanza	Western	R. Valley	N.Eastern	Nairobi
Ngilu	38,089	30,535	349,754	15,301	3,429	11,345	440	39,707
	9.35%	3.04%	33.28%	1.67%	0.50%	0.69%	0.45%	10.85%
Moi	275,056	56,367	370,954	215,923	314,669	114,019	70,506	75,272
	63.09%	5.60%	35.30%	23.52%	45.95%	69.37%	72.80%	20.56%
Odinga	24,844	6,869	7,787	519,511	13,458	36,022	311	59,415
	6.10%	0.68%	0.74%	56.56%	1.97%	2.19%	0.32%	16.23%
Kibaki	51,909	891,484	296,335	138,202	9,755	343,529	20,404	160,124
	12.74%	88.64%	28.20%	15.05%	1.42%	20.90%	21.09%	43.74%
Wamalwa	11,306	3,058	7,017	14,623	538,120	102,178	4,431	24,971
	2.77%	0.30%	0.67%	1.59%	49.37%	6.22%	4.58%	6.82%

Source: Adapted from Report on the 1997 General Elections in Kenya, 29-30th December 1997, Published by the Institute for Education in Democracy (IED), Catholic Justice and Peace Commission (CJPC) and National Council of Churches in Kenya (NCCCK), 1998, pp. 2000-2010

¹⁶⁷ Kenya Election 2007: Loses, Gains and Lessons, A Report of the 2007 General Elections Published by Kenya Elections Domestic Observation Forum (KEDOF), 2008, pp. 87-88

Table 2.5: The ethnic groups listed as having been involved in the ethnic clashes from 1991 to 1997 according to particular areas affected

RIFT VALLEY PROVINCE		
DISTRICT	AREA	ETHNIC GROUPS INVOLVED
NAKURU	Molo	Kipsigis, Ogiek -vs- Kikuyu & Kisii
	Njoro	Kipsigis, Ogiek -vs- Kikuyu
	Olenguruone	Kipsigis, Ogiek -vs- Kikuyu, Kisii
KERICHO	Londiani	Kipsigis -vs- Kikuyu, Kisii, Luo, Kamba & Luhya
	Kipkelion	Kipsigis -vs- Kikuyu, Kisii, Luo, Kamba & Luhya
	Thessalia	Kipsigis -vs- Luo
	Kunyak	Kipsigis -vs- Luo
	Sondu	Kipsigis -vs- Luo
NAROK	Enoosupukia	Maasai -vs- Kikuyu
LAIKIPIA	Ol Moran	Samburu, Turkana & Pokot -vs- Kikuyu
NANDI	Miteitei	Nandi -vs- Kikuyu, Luhya & Kisii
	Kamasai	Nandi -vs- Luhya
	Owiro	Nandi -vs- Luo
	Songhor	Nandi -vs- Luo
UASIN GISHU	Burnt Forest	Nandi -vs- Kikuyu
	Turbo	Nandi -vs- Luhya
TRANS NZOIA	Saboti	Sabaot -vs- Bukusu
		Pokot -vs- Luhya
TRANS MARA	Nayngusu	Kisii -vs- Maasai
NYANZA PROVINCE		
KISUMU	Sondu	Kipsigis -vs- Luo
	Ochodororo	Kisii -vs- Luo
	Nyangusu	Kisii -vs- Maasai
WESTERN PROVINCE		
BUNGOMA	Mt Elgon	Sabaot -vs- bukusu & Teso
COAST PROVINCE		
MOMBASA	Likoni	Digo -vs- Luo, Kikuyu and other upcountry people
	Matuga	Digo -vs- Luo, Kikuyu and other upcountry people
TANA RIVER	Bangale	Degodia -vs- Omar
	Garsen	Orma -vs- Galjael

	Hola-Garsen	Wardey -vs- Pokomo
	Saka	Ogaden -vs- Munyoyaya
	Nanighi	Degodia -vs- Orma
	Boka	Degodia -vs- Ogaden
NORTH EASTERN PROVINCE		
GARISSA	Benane	Ogaden -vs- Borana
	Saka	Ogaden -vs- Munyanya
	Masalani	Ogaden -vs- Pokomo
WAJIR	Griftu	Degodia -vs- Ajuran
	Hadado	Degodia -vs- Ajuran
	Bute	Degodia -vs- Ajuran
	Bute	Ajuran -vs- Garre
	Habaswein	Degodia -vs- Ogaden
	Baggalla	Degodia -vs- Borana & Gabra
	MANDERA	Kotullo
Korofa Harer		Garre -vs Degodia
Mansa		Garre -vs Degodia
EASTERN PROVINCE		
ISIOLO	Garbatulla	Borana -vs- Degodia
	Benane	Borana -vs- Ogaden
	Budhudia	Boran -vs- Degodia
MOYALE	Moyale Town	Boran -vs- Degodia
MARSABIT	Archers Post	Boran -vs- Degodia

Source: Republic of Kenya, Report of the Judicial Commission Appointed to Inquire into Tribal Clashes in Kenya (Nairobi: Government Printer, 1999), pp. 23-26

In spite of the deaths and destruction occasioned by the 1992 and 1997 elections-related violence no one was ever punished even though two government inquiries - the 1992 Kiliku committee and the 1998 Akiwumi Commission - recommended further investigation and prosecution of perpetrators.¹⁶⁸

In the period prior to 2002 a new scheme of mobilizing ethnic support which had proved elusive in 1992 and 1997 general elections was hatched in the form of coalition building. A coalition is either a pre-election or post-election alliance between two or more dynamic entities

¹⁶⁸ Republic of Kenya, Report of the Commission of Inquiry into the 2007 Post Election Violence, 2008, p.26

(political parties) co-operating in joint action while preserving individual identity and basic self interests.¹⁶⁹ The opposition leaders having separately unsuccessfully tried to oust KANU from power in two successive elections came together in 2002 to form a pre-coalition political party, National Rainbow Coalition (NARC). NARC provided a framework within which ethnic-based parties bargained for power-sharing, which led to the signing of a Memorandum of Understanding (MoU) between the coalition parties. NARC had two wings, that is National Alliance Party of Kenya (NAK) and Liberal Democratic Party (LDP) which was a breakaway from KANU. In the pre-election campaigns NARC promised to end ethnicity but soon after assuming power strategic civil service appointments were reserved for NAK loyalists whether acclaimed as corrupt or above retirement age.¹⁷⁰ The appointments gave an impression of ethnic favouritism because they were from one region, Mt Kenya, and this became a source of instability in the coalition as it gave the impression that the NARC administration had resorted once again to ethnicity as a major factor in Kenyan politics.¹⁷¹

In 2002, KANU leaders predicted that the country would disintegrate along tribal lines leading to anarchy and chaos.¹⁷² Consequently they called for forceful removal of ethnic groups in Rift Valley Province which they viewed 'outsiders'. However, the general elections turned out to be the most democratic in Kenya's multiparty politics. Election observers generally agreed that there was reduced electoral violence in 2002 elections compared to 1992 and 1997 general elections.

¹⁶⁹ P. Wanyande, 'The Politics of Coalition Government' in P. Wanyande, M. Omasa & C. Ludeki (eds), *Governance and Transition Politics in Kenya* (Nairobi: Nairobi University Press, 2007), p. 109

¹⁷⁰ Ibid p. 116

¹⁷¹ Ibid

¹⁷² P. Mutahi, 'Political Violence in Elections', in M. Katumanga *et al*, *The Moi Succession* (Nairobi: Trans Africa Press, 2005), p. 69

Kenya approached the 2007 general elections with failed elite pacts.¹⁷³ In societies that are in structural conflict, elite pacts, though largely inadequate, are important devices for managing tensions.¹⁷⁴ President Mwai Kibaki immediately after being sworn-in in 2002 reneged on the Memorandum of Understanding (MOU) his National Alliance Party of Kenya (NAK) had entered with Liberal Democratic Party (LDP) headed by Raila Odinga prior to the 2002 elections marking the first stage of elite fragmentation.¹⁷⁵ The MOU stipulated an equal share of Cabinet and government positions between the two parties.

The second elite fragmentation occurred immediately after the 2005 constitutional referendum. After the ODM wing of the government successfully campaigning against the adoption of the new constitution, President Kibaki reacted by sacking ministers drawn from ODM. The 2007 post election violence was, in part, a consequence of the failure by President Kibaki and his government to exert political control over the country and maintain sufficient legitimacy as would have allowed a civilized contest with him at the polls possible.¹⁷⁶ He failed to unite the country and allowed feelings of marginalization to fester into what became the post election violence.¹⁷⁷ The violent hotspots were Mt. Elgon in Western Province and Kuresoi in Rift Valley and although the ethnic clashes in these areas had their basis in land issues, they were politically instigated.¹⁷⁸

¹⁷³ B. Sihanya & D. Okello, op cit (fn. 115), p.663

¹⁷⁴ Ibid

¹⁷⁵ Ibid p. 664

¹⁷⁶ See Republic of Kenya, Report of the Commission of Inquiry into the 2007 Post Election Violence, p.30

¹⁷⁷ Ibid

¹⁷⁸ Kenya Election 2007: Loses, Gains and Lessons, A Report of the 2007 General Elections Published By Kenya Elections Domestic Observation Forum (KEDOF), 2008, p. 88

CHAPTER THREE

3.1 INTERNAL MANAGEMENT OF POLITICIZED ETHNIC CONFLICTS IN KENYA, 1991-2008

Regional organizations in their constitutive Acts encourage their member-states to manage conflicts within their borders. For example Article 38 of the African Union (AU) constitutive Act authorizes state parties to promote peace, security and stability in their respective countries, regions and in the continent by fostering participatory political systems and well functioning and, if need be, inclusive institutions.¹⁷⁹ The AU constitutive Act also encourages state parties to promote solidarity amongst member states and support the conflict prevention and resolution initiatives that the AU may undertake in conformity with the protocol establishing the Peace and Security Council.¹⁸⁰ Despite the UN rooting for peaceful settlement of conflicts, a strategy which applies to regional organizations and their member-states, governments especially in the developing countries in their management of intra-state conflicts have resorted to use of excessive force and have sometimes been accused of complacency and complicity.

3.2 Use of Force

Use of force in Kenya by government to maintain and retain power has a long history. It was part and parcel of the colonial state which used it to ensure control while Kenya's first independent President Jomo Kenyatta used both the carrot and the stick to maintain power, with the use of violence mainly concentrated in the hands of the state, rather than outside it.¹⁸¹ However, repression under Kenya's second President, President Daniel Arap Moi, became more draconian as violence, including detentions without trial and the routine torture of perceived and

¹⁷⁹ Clause (1) of Article 33, African Charter on Democracy, Elections and Governance

¹⁸⁰ Clause (2) of Article 33, African Charter on Democracy, Elections and Governance

¹⁸¹ Republic of Kenya, Report of the Commission of Inquiry into the 2007 Post Election Violence, 2008, p. 24

real dissenters which became institutionalized early in his rule.¹⁸² Once in office he changed the face of Kenyan politics by replacing the Kikuyu-centered state with a new alliance of minority ethnic elites thus entrenching a new order whose fulcrum was control over the party and civil service.¹⁸³

President Moi's centralization of power and the intensification of kleptocracy were backed by an increasing resort by the regime to greater repression and intimidation. This in turn generated a groundswell of dissent against his rule by a growing opposition movement which culminated in the push for multipartyism in early 1990s. The government mounted a major crackdown on agitators for multipartyism. They were arrested and detained without trial. Their meetings were violently dispersed, an example is the *Saba Saba* rally in 1991 whereby the police cordoned off the Kamukunji grounds where the rally was to take place and indiscriminately clobbered any body on sight. Several people died while others were injured. After the repeal of Section 2A paving the way for multipartyism, the government's monopoly in use of force to harass and intimidate was challenged by ethnic groups. Throughout the period of 2007 post election violence there were multiple instances where Kenya's security forces (including the regular police, Administration police (AP) and General Service Unit (GSU) used excessive and lethal force in actual or apparent endeavours to quell violence.¹⁸⁴ The Kenya National Human Rights Commission (KNHRC) has documented several cases of this nature which occurred among other places in Nyanza, Rift Valley and the Coast Province.¹⁸⁵

¹⁸² Ibid

¹⁸³ R. Southall, 'Moi's Flawed Mandate: The Crisis Continues in Kenya', *Review of African Political Economy*, Vol. 25, No. 75, The Machinery of External Control (Mar., 1998), pp. 101-112: 102

¹⁸⁴ On the Brink of the Precipice: A Human Rights Account of Kenya's Post-2007 Election Violence (Nairobi: KNHRC, 2008), p. 4

¹⁸⁵ Ibid

Use of force as employed by the government to deal with ethnic clashes is a way of settling (suppressing) a conflict. By applying force, the conflict still remains in the form of mutually incompatible goals and probably more hostile and fearful emotions than before.¹⁸⁶ This explains why ethnic clashes have persisted over the election years. The sources of intractable social conflict originate in a set of unsatisfied basic needs not only physical but also psychological (self esteem, recognition, and respect).¹⁸⁷

3.3 Ethnic Clashes and State Complicity

Chapter V of the Constitution of Kenya bestows the government with the basic constitutional responsibility to provide security for all its citizens irrespective of their ethnic background, political opinion, social status, religious affiliation, sex or race.¹⁸⁸ Ironically, the government has been accused of being a participant in the ethnic clashes. State-sanctioned ethnic cleansing reached their peak between 1991 and 1994 and left about 1,500 people dead and up to 300,000 people chased from their homes.¹⁸⁹ The clashes were politically motivated, fuelled by some officers in the provincial administration and were instigated in the misconception that some ethnic communities could chase others in order to acquire their land.¹⁹⁰ Whereas the provincial administration would have been the first to initiate definite measures to quell and contain the clashes evidence showed numerous accounts that some of the officers were either inactive, facilitated in creating an atmosphere pliable to the sparking of the clashes, or did not act as

¹⁸⁶ C. R. Mitchell, 'Conflict, War and Conflict Management', in M. Light & A. J. R. Groom, *International Relations: A Handbook of Current Theory* (London: Frances Pinter Publishers, 1985), p. 128

¹⁸⁷ H. Jeong, *Understanding Conflict and Conflict Analysis* (London: Sage Publications Ltd, 2008), p. 51

¹⁸⁸ See Chapter V of the Constitution of Kenya

¹⁸⁹ F. Holmquist & M. Ford, 'Kenyan Politics: Towards a Second Transition?', *Africa Today*, Vol. 45, No. 2, The Future of Democracy in Kenya (Apr.- Jun., 1998), pp. 227-258: 229

¹⁹⁰ Republic of Kenya, Report on the Parliamentary Select Committee to Investigate Ethnic Clashes in Western and Other Parts of Kenya, 1992, p.82

expected.¹⁹¹ Arrested perpetrators of ethnic clashes were released without any charge preferred against them while in some cases the security personnel assisted warring parties to commit crime, for example at Sotik in Rift Valley Province AP in the company of five civilians was accused by locals of burning Kipsigis houses in March 17, 1992.¹⁹²

The recurrence of ethnic clashes in 1997 general elections necessitated the appointment of a judicial commission popularly known as the Akiwumi Commission by President Moi with the mandate to investigate the ethnic clashes that occurred in Kenya since 1991 with a view of establishing and/or determining the origin, the probable, the immediate and underlying causes of such clashes; the action taken by police and other law enforcement agencies and the level of preparedness and the effectiveness of law enforcement agencies in dealing with the clashes.¹⁹³ The Commission was to recommend prosecution or further criminal investigation against any individual who may have committed offences related to the ethnic clashes.¹⁹⁴ It was also to recommend ways, means and measures that ought to be taken to prevent, control, or eradicate such clashes in future.¹⁹⁵

In 2007 post election violence the police was accused of complacency and at times complicity.¹⁹⁶ The government failed to act on intelligence provided by the National Security Intelligence (NSIS) and institutional integrity of Kenya's security forces was compromised in a number of instances where security officers opted either to protect individuals of such officers'

¹⁹¹ Ibid p. 69

¹⁹² Ibid p. 72

¹⁹³ See Republic of Kenya, Gazette Notice No. 3312 of July 1, 1998

¹⁹⁴ Ibid

¹⁹⁵ Ibid

¹⁹⁶ On the Brink of the Precipice: A Human Rights Account of Kenya's Post-2007 Election Violence (Nairobi: KNHRC, 2008), p. 100

ethnic groups or in the alternative failed to protect endangered individuals from members of other communities baying for their blood.¹⁹⁷

The fact that ethnic clashes have been recurring since 1991 is an indictment of the government. The three arms of government, that is, the judiciary, the legislature, and the executive have done little to stem ethnic clashes. The issue of ethnic clashes first cropped up in Parliament in 1992 when MPs sought to find out ways of ending them. As a result a 13-member committee, Parliament Select Committee to investigate Ethnic Clashes in Western and other Parts of Kenya and designated Kiliku Committee as it was chaired by Kennedy Kiliku (the then Likoni MP), was set up in May 13, 1992 to probe the root causes of the ethnic clashes and to make recommendations with a view to averting such incidences in future.¹⁹⁸ The Kiliku Committee report was categorical; *Majimbo* rallies fanned ethnic antagonism.¹⁹⁹ The report gave examples of September 8, and September 21, 1991 *Majimbo* rallies in Kapsabet and Kapkatet respectively which propagated that Rift Valley Province was for Kalenjins and those espousing political parties other than KANU should leave the province.²⁰⁰

As part of its findings the Akiwumi report accused the government through the provincial administration of conniving in preparation and perpetration of the ethnic clashes.²⁰¹ The report gives an example of the attack of Likoni Police Station on August 13, 1997, whereby the police failed to act despite having crucial information about six weeks before the attack that some youths from Kwale and Likoni who did not support KANU were taking illegal oaths that would bind them

¹⁹⁷ Ibid

¹⁹⁸ See Republic of Kenya, Report on the Parliamentary Select Committee to Investigate Ethnic Clashes in Western and Other Parts of Kenya, 1992, p.2

¹⁹⁹ Ibid p. 8

²⁰⁰ Ibid p.19

²⁰¹ Report of the Judicial Commission Appointed to Inquire into Tribal Clashes in Kenya (Nairobi: Government Printer, 1999), pp. 31

to commit crime.²⁰² The Akiwumi Commission concluded that there was ample evidence of illegal oaths of commitment and secrecy by, and military training of, Digo youths among other things to attack nothing other than things to attack Likoni Police Station where six policemen were killed, 12 others injured, over 40 firearms and 1,400 rounds of ammunition stolen from the station and several buildings including the police station burnt.²⁰³

In all cases of violence the government was extremely reluctant to deploy security forces to stop the violence and where officers were deployed they were either hopelessly few or reluctant to stop the violence.²⁰⁴ The ruthlessness of the provincial administration to ensure KANU retained power at all cost in 1997 general elections was captured by the following statement issued by Keiyo DC

as an employee of KANU government my livelihood depends on the very same system. Therefore I would not shy away from praying that President (Daniel Arap) Moi be re-elected once more, to enable me remain the DC... better the devil you are used to than the angel you do not know. It is scary to hear of these parties who usually claim that once they take over power from KANU, they will dismantle the provincial administration and cliff off powers of police. Who will entertain that?²⁰⁵

In Kiliku report and Akiwumi report, evidence showed numerous accounts that some officers facilitated in creating an atmosphere pliable to the sparking of the ethnic clashes. The 2007 post election violence was no different. Four police officers were caught distributing posters bearing hate messages in Rift Valley Province warning area residents against voting for Orange Democratic Movement (ODM) presidential candidate Raila Odinga. The posters alleged that Odinga once elected will persecute senior personalities in the province among them retired President Moi and ODM Eldoret North parliamentary candidate William Ruto.

²⁰² Ibid p. 33

²⁰³ Ibid p. 38

²⁰⁴ The Political Economy of Ethnic Clashes in Kenya, A Report of the International Commission of Jurists (Kenya Section), 2000, p. 27

²⁰⁵ R. Ajulu, 'Kenya's Democracy Experience: The 1997 Elections', *Review of African Political Economy*, Vol. 25, No. 76, Globalization and the Regulation of Africa (Jun., 1998), pp.275-285:277

The judiciary, a critical arm of the government which ought to have dispensed justice to the victims of ethnic clashes, has not been performing its duties as expected. Suspects of ethnic clashes, including politicians and police officers, are released before being charged in court, thus condoning impunity and emboldening perpetrators of the ethnic clashes to continue unleashing violence on Kenyans. In 2005 Kenya National Commission of Human Rights (KNCHR) accused Attorney General Amos Wako of perpetrating impunity.²⁰⁶ The Commission furnished the Attorney General with detailed evidence of individual politicians who had incited the public to violence and engaged in subversion by promoting ethnic animosity during the 2005 referendum campaigns on the proposed constitution.²⁰⁷ The politicians were said to have contravened Section 96 and 77 of the penal Code. Clause One of Section 77 of the Penal Code provides

Any person who does or attempts to, or make any preparations to do or conspires to do, or conspires with any other person to do, any act with a subversive intention, or utters any words with a subversive intention, is guilty of an offence and liable to an imprisonment for a term not exceeding three years...

According to the Commission, the Attorney General chose not only to do nothing, but also actively prevented accountability by using the power of *nolle prosequi* (not to prosecute) to frustrate the efforts of those who wanted to vindicate the law.²⁰⁸

The recommendations of Kiliku and Akiwumi report were never implemented. The irony is that the recommendations in Akiwumi report are similar to the ones in Kiliku report meaning that the 1997 ethnic clashes occurred partly because of the failure to implement the Kiliku recommendations. Like in the Akiwumi report, the Kiliku report provided a list of politicians and top ranking government officials and recommended further investigation into their role in instigating the ethnic clashes for possible prosecution. Despite the Akiwumi Commission

²⁰⁶ Referendum Report 2005 (Nairobi: Kenya National Commission of Human Rights, 2005), p. 6

²⁰⁷ Ibid

²⁰⁸ Ibid

submitting its report to President Daniel Arap Moi on August 19, 1999, the contents of the report were publicized in October 2003 after pressure was made to bear on the government. However, the government rejected part of the report that related to the Rift Valley and especially, the Kalenjin and Maasai communities, and produced a 31-page undated document which had no author or signatory. The undated document reads in part

There is an obvious bias against the Kalenjin and Maasai communities in the report. A cursory look at the list of participants ... (alleged perpetrators of violence) leaves no doubt that the great majority are from the Kalenjin and Maasai communities. There are few exceptions but the majority of these, however, were either police officers or provincial administration officers...when it comes to non police and administration officers, the only people outside Kalenjin/Maasai community against whom recommendations have been made are Dr. Njoroge Mungai, Burudi Nabwera, Maalim Mohamed and Ferdinand Obure. Out of this small number it is only Njoroge who is a Kikuyu.²⁰⁹

The document noted that most of the evidence by the Commission was hearsay, rumour or gossip and thus there was no evidence to form the basis of a recommendation for a prosecution.²¹⁰

It concluded by ruling out any possibility of further investigation into ethnic clashes arguing that many investigations on ethnic clashes have been carried out and launching a fresh one will carry the matter no further or offer solutions.²¹¹ This was a clear signal that the government had no intention of implementing the report for it implicated some provincial administration officers and high ranking government officials in fuelling ethnic clashes. The failures to implement recommendations of the two reports sow a culture of impunity in Kenyan politics which climaxes during electioneering period. Politicians have mastered the use of ethnic identity as a political resource which they can manipulate to acquire or advance their own political and economic advancement.

²⁰⁹ See Comments by the Government on the Report of the Judicial Commission Appointed to Inquire into Tribal Clashes in Kenya (Akiwumi Report), p. 4

²¹⁰ Ibid

²¹¹ Ibid p. 30

3.4 Persistent of Ethnic Clashes in Kenya

State complacency and complicity in prevention and management of ethnic clashes has led to their persistence. The 2007 post election violence was blamed on the failure by the government to implement recommendations of the Kiliku and Akiwumi reports. The Commission of Inquiry into 2007 Post Election Violence (Waki commission)²¹² report notes that the lackadaisical manner in which the government dealt with the Akiwumi report illustrates that the state was not particularly interested in resolving once and for all the issue of ethnic violence.

The Commission, which was established as part of agreement of the AU-led mediation of the 2007 post-election violence, found out that failure to punish perpetrators of violence, historical land injustices, unequal distribution of national resources, growing population of the poor and the unemployed youth have contributed to violence not only being a factor in elections but in everyday life.

A questionnaire bearing these factors elicited mixed reactions from respondents. Majority of the respondents, 67.7 per cent of the respondents, singled out unequal distribution of national resources to be to a large extent the main cause of the persistence of ethnic clashes. This is compared to 2.9 per cent who are of the view that unequal distribution of national resources is not at all a cause of the persistence of ethnic clashes.

Fifty per cent of the respondents agreed historical land injustices are to blame for persistence of ethnic clashes whereas 20.6 per cent and 26.5 per cent were of the opinion that historical land injustices is to a less extent and moderate extent respectively to blame for the persistence of ethnic clashes. Also fifty per cent of the respondents agreed that failure to prosecute perpetrators of ethnic clashes is to a large extent to blame for the persistence of the ethnic clashes.

²¹² The Waki Commission was one of the commissions established as part of recommendations by the African Union (AU) - led Panel of Eminent Persons headed by former UN Secretary General Kofi Annan

About a third of the respondents or 29.4 per cent held the view that failure to prosecute perpetrators is to a moderate extent the reason behind the persistence of ethnic clashes.

Table 3.1: Reasons for Persistence of Ethnic Violence in Kenya

Reason	Response	Frequency	Per cent
Historical land injustices	Not at all	1	2.9
	To a less extent	7	20.6
	To a moderate extent	9	26.5
	To a large extent	17	50
	No response		
	TOTAL	34	100
Unequal distribution of national resources	Not at all	1	2.9
	To a less extent	2	5.9
	To a moderate extent	8	23.5
	To a large extent	23	67.7
	No response		
	TOTAL	34	100
Failure to prosecute perpetrators of ethnic violence	Not at all	3	8.8
	To a less extent	4	11.8
	To a moderate extent	10	29.4
	To a large extent	17	50
	No response		
	TOTAL	34	100
Poverty	Not at all	0	0
	To a less extent	11	32.4
	To a moderate extent	12	35.2
	To a large extent	11	32.4
	No response		
	TOTAL	34	100
Large number of unemployed youth	Not at all	2	5.9
	To a less extent	6	17.6
	To a moderate extent	10	29.4
	To a large extent	16	47.1
	No response		
	TOTAL	34	100

Source: Research data

As a result the Waki Commission came up with a two-pronged approach to dispensing justice to the victims of the 2007 post election violence. First it recommended the establishment of a special tribunal to seek accountability against persons bearing the greatest responsibility for crimes, particularly crimes against humanity, relating to the 2007 general elections.²¹³

The special tribunal was to achieve this through investigation, prosecution and adjudication of such crimes. Secondly, bearing in mind that previous attempt to dispense justice to victims of ethnic violence had been unsuccessful and similar fate may befall the special tribunal, the Commission sought external intervention by recommending a list of names of and relevant information on those suspected to bear the greatest responsibility for crimes falling within the jurisdiction of the proposed special tribunal be forwarded to the Special Prosecutor of the International Criminal Court.²¹⁴

The failures by the government to not only deal with structural conflicts but also politically instigated physical violence during elections years in multiparty era was put to test by the 2007 post election violence. While politicized ethnic conflicts in 1992 and 1997 subsided shortly after the announcement of the presidential elections, in 2007 the announcement of election results led to spontaneous outbreak of violence in various parts of the country. With the government unable to stop the violence it was left for the international community to intervene and save Kenya from sliding into a full blown civil war.

²¹³ Republic of Kenya, Report of the Commission of Inquiry into the 2007 Post Election Violence, p. 472

²¹⁴ Ibid p. 473

CHAPTER FOUR

4.1 INTERNATIONAL MANAGEMENT OF KENYA'S 2007 POST ELECTION VIOLENCE

The intervention by the international community in the management of Kenya's 2007 post election violence was an indictment on the government's failure to manage and prevent politicized ethnic conflicts. This chapter analyzes the AU-led mediation of the post election violence and the role played by the UN and other international actors in the management of the violence. When regional organization intervenes in conflicts, their activities are supposed to be in consistent with the purposes and principles of the UN.²¹⁵ Therefore, it is prudent to first look at the philosophy and rationale of conflict management within the UN framework.

The philosophy and whole rationale of conflict management is the peaceful management of conflict.²¹⁶ The idea of peaceful management of conflict is central to international relations, international law, and is enshrined in important documents of contemporary diplomacy such as the Charter of the UN. The UN, which was established as an organization of equal and sovereign states with the goal of ensuring and developing peaceful and friendly relations between states²¹⁷, requires its members to settle their conflicts by peaceful means in a way that does not threaten international peace and justice.²¹⁸ Article 33 on pacific settlement of disputes provides that parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security shall first of all seek a solution by negotiation, inquiry, mediation, conciliation,

²¹⁵ Article 52 of the UN Charter

²¹⁶ M. Mwagiru, *The Water's Edge: Mediation of Violent Electoral Conflict in Kenya* (Nairobi: Institute of Diplomacy and International Studies, 2008) pp. 35

²¹⁷ See Article 2(4), UN Charter

²¹⁸ See Article 2(3), UN Charter

arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice.²¹⁹

Although internal conflicts were not the main concern of the founders of the UN, the UN Charter gives the Security Council the authority to disregard the general principles of non-intervention in domestic affairs of states if a threat to international peace and security exists.²²⁰

Article 2(7) reads

Nothing contained in the present Charter shall authorize the UN to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.²²¹

Internal conflicts especially in Africa have prompted six different sub-regional, continental, and international responses, namely, military intervention to aid one side, peace enforcement, humanitarian intervention, mediation, preventive diplomacy, and regional institution-building to manage conflicts.²²² In the contemporary world mediation has proved to be the most popular method of peaceful management of conflicts by third parties.²²³ Bercovitch and Houston²²⁴ define mediation as a

process of conflict management, related to but distinct from the parties' own efforts, whereby the disputing parties or their representatives seek the assistance, or accept an offer of help from an individual, group, state or an organization to change, affect or influence their perceptions or behavior, without resorting to physical force, or invoking the authority of the law.

²¹⁹ See Article 33, Chapter VI, UN Charter

²²⁰ C. de Jonge Oudraat, op cit (fn. 16), p. 492

²²¹ See Article 2(7) of the UN Charter

²²² S. J. Stedman, 'Conflict and Conciliation in Sub Saharan Africa', in M. E. Brown (ed), *The International Dimension of Internal Conflict* (Cambridge: The MIT Press, 1996), p. 11

²²³ M. Mwangi (2008), op cit (fn. 216), p. 15

²²⁴ J. Bercovitch & A. Houston, 'Why Do They Do It Like This? An Analysis of the Factors Influencing Mediation Behavior in International Conflicts', *The Journal of Conflict Resolution*, Vol. 44, No. 2. (April, 2000) , pp. 170-202:171

In mediation a third party assists two or more contending parties to find a resolution without resorting to force.²²⁵ Parties in a conflict agree to invite a third party (mediator) to help resolve their differences. The choice of the mediator and acceptance or rejection of mediation outcome lies with the parties in conflict. Mediation has been used to resolve ethnic conflicts with varying degrees of success. In Cyprus different mediation efforts have unsuccessfully been carried out to manage ethnic conflict over the years. Greek and Turkish Cypriots appeared to live within a functional and relatively harmonious relationship with social tolerance but without cultural integration during British administration in early Nineteen Century.²²⁶ However in 1930s Greek Cypriots fell out with Turkish Cypriots, who were more aligned with the British, and started to resist British rule and waged war in 1955 seeking to unite with Greece.²²⁷ The British administration responded by searching for mechanisms to bring Cyprus to self government with minority rights protected.²²⁸ With some involvement by Greece and Turkey, it sought to engineer a settlement through third party initiatives (mediation) using its influence and power, in particular, its capacity to grant or not grant independence.²²⁹ A succession of UN mediators has failed to produce a settlement of the protracted social conflict which rages on to date.

Peacekeeping is another popular third party intervention measure. The concept of peacekeeping, a pacific method of intervention which is not provided for in the UN Charter, was developed by the UN at the beginning of the Cold War as a practical mechanism to be used by the UN to contain armed conflicts and to facilitate their political settlement by peaceful means such as

²²⁵ M. Kleiboer, 'Understanding Success and Failure in International Mediation' *The Journal of Conflict Resolution*, Vol. 40, No. 2. (June., 1996), pp. 360-389:360

²²⁶ R. J. Fisher & L., Keashly, 'The Potential Complimentarity of Mediation and Consultation within a Contingency Model of Third Party Intervention', *Journal of Peace Research*, Vol. 28, No. 1, Special Issue on International Mediation (Feb., 1991), p.40

²²⁷ Ibid p. 41

²²⁸ Ibid

²²⁹ Ibid

mediation despite constraints of the Cold War.²³⁰ The traditional mandate of peacekeeping is to contain war so that stable conditions are provided in search for peace and its goal unlike collective security is not to impose an international community's will on an aggressor.²³¹ During the Cold War peacekeepers were expected to act as a buffer between two warring parties. The main concern was that regional conflicts might draw in the great powers and lead to a super power confrontation.²³² The 1960-64 UN peacekeeping operation in Congo was the largest during the Cold War period and the factors that triggered and led to the UN involvement – state fragility, lack of central government authority, and ethnic and regional fragmentation – bear comparison with post Cold War crises requiring UN intervention.²³³

Peacekeeping in the post Cold War period has evolved to include peacemaking and post-conflict peace building, a peacekeeping role proposed by the Boutros Boutros-Ghali in his 1992 report to the General Assembly titled 'An Agenda for Peace'.²³⁴ The task of peacekeeping missions have become more complex evolving from monitoring buffer zones and force disengagements to overseeing the demobilization of armed factions, ensuring that national elections are free from bias and voter intimidation, and that election outcomes are valid reflections of votes cast.²³⁵

²³⁰ F. T. Liu, *UN Peacekeeping and Non Use of Force*, International Peace Academy, Occasional Paper Series (London: Lynne Publishers, 1992), p. 249

²³¹ H. Jeong, op cit (fn. 5), p. 125

²³² C. Oudraat, 'The United Nations and Internal Conflict', in M. E. Brown, (ed), *The International Dimension of Internal Conflict*, (Cambridge: The MIT Press, 1996), p. 504

²³³ D. N. Gibbs, 'The United Nations, International Peacekeeping and the Question of Impartiality: Revisiting the Congo Operation of 1960', *The Journal of Modern African Studies*, Vol. 38, No. 3 (Sep., 2000), pp. 359-382:361

²³⁴ B. Boutros-Ghali, *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peacekeeping* (New York: UN Department of Public Information, 1992), p. 32-34

²³⁵ W. J. Durch, 'Building on Sand: UN peacekeeping in the West Sahara', *International Security*, Vol. 17, No. 4 (Spring, 1973), pp. 151-171:153

4.2 The UN and the Strategist Approach

Strategy, a Cold War approach to the management of global conflicts, continues to be the dominant approach in the management of conflicts, including ethno political conflicts, in the Post Cold War period. This is despite the paradigm shift in state-centric understanding of international system in post Cold War period to encompass a world society view where the activities of non state actors, including ethnic groups, have become more vibrant than ever before. Strategy is the conflict management arm of realist paradigm in the study of international relations. The realist view of states as the principal actors in international relations, and war and violent coercive activity as the sharp end of power politics are at the center of the strategist approach.²³⁶ In the post Cold War, the realist view that states are the major actors since they have a plenitude of means of coercion available to them and the right to go to war to defend their interests²³⁷ has been challenged by ethnic groups. The US-Soviet rivalry made it impossible for the UN Security Council to pass a resolution on peace enforcement leading in 1996 the UN Secretary General Kofi Annan acknowledged that the UN faced serious challenges and proposed that future operations should have the mandate and capacity to conduct if necessary offensive operations against recalcitrant. Similar sentiments were expressed by the UN Secretariat in a 2000 report which began by acknowledging that over the previous decade, that is since the end of the Cold War the UN had failed to meet its original challenge of saving succeeding generations from the scourge of war.²³⁸

The report concurred with Annan's 1996 suggestion that new method of intervention should be considered but added that the implementation of such method should be guided by the UN Charter. Annan was rooting for implementation of Chapter VII on peace enforcement. What

²³⁶ A. Adeleke, 'The Politics and Diplomacy of Peacekeeping in West Africa: The Ecomog Operation in Liberia', *The Journal of African Modern Studies*, Vol. 33, No. 4 (Dec., 1995), pp. 569-593:571, p. 571

²³⁷ A. J. R. Groom, op cit (fn. 96), p.83

²³⁸ See Report of the Panel on United Peace Operations, 2000

Annan was proposing was not new. The first UN military action was against North Korea in 1950 but on somewhat anomalous basis: the Security Council, taking advantage of the temporary absence of the Soviet Union of its deliberations recommended that members afford collective defense assistance to South Korea and that this should be done under a single UN Command provided by the United States.²³⁹ This was after North Korean People's Army invaded the Republic of Korea without warning which prompted decision makers to think that acceptance of a successful North Korean communist invasion of the Republic of Korea would constitute intolerable appeasement that would lead to World War III just as unopposed aggression of the 1930s led to World War II.²⁴⁰

Despite the UN Charter advocating for peaceful settlement of disputes, it allows the use of force in Chapter VII as a last resort after peaceful means have proven unsuccessful. Chapter VII deviates from the broad UN commitment to pacific settlement of conflicts and authorizes military interventions. Peace enforcement is foreseen in Chapter VII Article 43 of the UN Charter in which

all members undertake to make available to the UN Security on its call and in accordance with special agreement or agreements armed forces, assistance and facilities including rights of passage, necessary for the purpose of maintaining international peace and security.²⁴¹

The UN regulates the use of force. Guidelines for the use of force are usually contained in UN's Standard Operating Procedures (SOP) which defines what is meant by force and the principles governing its use.²⁴² They are made to explain in detail the circumstances in which force may be used and the manner in which weapons are to be used for example in regard to use of warning

²³⁹ R. Higgins, 'The New United Nations and Former Yugoslavia', *International Affairs (Royal Institute of International Affairs, 1944-)* Vol. 69, No. 3 (Jul., 1963), pp. 465-483:467

²⁴⁰ G. D. Paige, 'Comparative Case Analysis of Crisis Decisions: Korea and Cuba', in C. F. Hermann (ed), *International Crises: Insights From behavioral Research* (New York: The Free Press, 1972), pp. 42-43

²⁴¹ See Article 43, UN Charter

²⁴² T. Findlay, *The Use of Force in Peace Operations* (New York: Oxford University Press, 2002), p. 13

shots, the controlling of fire, and prohibitions on the use of automatic weapons.²⁴³ The attempts to control the use of force has a long history and falls broadly into two categories – *Jus ad bellum* (the circumstances under which force may be used) and *Jus in bello* (the manner in which hostilities are conducted).²⁴⁴ The attempt to prescribe limitations on how hostilities may be conducted has largely been through international treaties with those of 1907, 1949, and 1977.²⁴⁵

Beginning with US-driven military response to the 1990-1991 Gulf crisis the UN has concentrated far greater attention on military solutions (deterrence) to internal and regional conflicts than ever before.²⁴⁶ Deterrence involves manipulation of threats to harm others in order to coerce them into doing what one desires.²⁴⁷ A sub-regional effort by the Economic Co-operation of Western Africa States (ECOWAS) to impose a peace settlement in Liberia and the intervention by the US and the UN to establish peace in Somalia were two attempts at peace enforcement in African civil wars between 1990 and 1995.²⁴⁸

The August 1990 West African States intervention into Liberia's civil war shows the difficulties of peace enforcement as it created the very situation it hoped to prevent. Taylor saw the ECOWAS Ceasefire Monitoring Group (ECOMOG) as a belligerent intent to deny him victory and escalated his attacks against the ECOMOG forces turning the civil war into a protracted struggle which generated 1.25 million refugees by October 1994 compared to 250,000-375,000 in August 1990.²⁴⁹ Civil war in Liberia started in 1989 after the National Patriotic Front of Liberia (NPFL) under leadership of Taylor invaded the government led by Samuel Doe who assumed power

²⁴³ Ibid

²⁴⁴ R. Higgins, op cit (fn. 239), p.465

²⁴⁵ Ibid

²⁴⁶ Bennis, P., 'Blue Helmets: For What? Under Whom?', in E. Childers (ed), *Challenges to the United Nations: Building a Safer World* (London: St. Martins Press, 1994), p. 156

²⁴⁷ J. E. Dougherty & R. L. Pfaltzgraff Jr., *Contending Theories of International Relations: A Comprehensive Survey*, 3rd Edition (New York: Harper & Row Publishers, inc., 1990), p. 401

²⁴⁸ F.T. Liu op cit (fn. 230), p. 250

²⁴⁹ Ibid p. 252

through coup in 1980.²⁵⁰ The UN first sent peacekeepers, United Nations Operations in Somalia I (UNOSOM I), in Somalia to provide food and relief supplies to the war-torn, famine stricken country.²⁵¹ However after rebels thwarted distribution of relief supplies by killing peacekeepers, the UN acting under Resolution 814²⁵² transformed the initial peacekeeping to peace enforcement where UNISOM II troops were to use all necessary measures against armed attacks including the arrest, detention, trial, and punishment of the rebels blocking relief efforts.²⁵³ Clan-based war broke out in Somalia in January 1991 after President Mohamed Siyad Barre was ousted from power by rebels led by General Mohamed Farah Aidid ending his 21-year dictatorial leadership.²⁵⁴ One lesson learnt in Liberia and Somalia is that peacekeepers cannot supervise peace in condition of war and turning them into a fighting force erodes international consensus converts them into a factional participant in internal power struggle and turns them into targets of attack from rival internal factions.²⁵⁵

4.3 Regional Organizations and Management of Politicized Ethnic Conflicts

Article 52 of the UN Charter authorizes regional and sub regional organizations or agencies to make every effort to achieve pacific settlement of local disputes before referring such disputes to the UN Security Council. Clause (1) of the Article reads

Nothing in the present charter (UN Charter) precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action provided that such arrangements or agencies and their activities are consistent with the purpose and principles of the UN.²⁵⁶

²⁵⁰ G. Cleaver & R. May, 'Peacekeeping: The African Dimension', *Review of African Political Economy*, Vol. 22, No. 66 (Dec., 1995), pp 485-497:492

²⁵¹ R. Thakur, 'From Peacekeeping to Peace Enforcement: The UN Operation in Somalia', *The Journal of Modern African Studies*, Vol. 32, No. 3 (Sep., 1994), pp. 387-410:396

²⁵² See Resolution 814

²⁵³ R. Thakur, op cit (fn. 251), p. 396

²⁵⁴ Ibid p. 388

²⁵⁵ Ibid p. 387

²⁵⁶ Clause (1) of Article 52, UN Charter

The UN usually becomes involved when all other apparent options have failed.²⁵⁷ The dilemma of UN being the reference point for intractable conflicts was captured by former UN Secretary General U Thant when he stated

Great Problems usually come to the UN because governments have been unable to think of anything else to do about them. The UN is a last-ditch, last resort affair, and it is not surprising that the organization should often be blamed for failure to solve problems that have already been found to be insoluble by governments.²⁵⁸

When regional and sub regional organizations intervene in conflicts bedeviling their member-states they do so on behalf of the UN. Over the years these multilateral organizations have played a major role in management of conflicts especially by mediating between warring parties and deploying peacekeeping troops in war torn areas. Although the UN has organized and directed most peacekeeping operations, regional organizations may be better able to deal with conflicts which have inter-state rather than global security implications.²⁵⁹ This is because most member-states of regional and sub regional organizations are likely to share a common historical and cultural tradition and to have a close affinity with problems and this makes it easier for them to reach a consensus on the mandate and operational role of a peacekeeping force.²⁶⁰

In line with the UN Charter on the role of regional arrangements or agencies in the maintenance of international peace and security and in accordance with the provisions of Article 5 (2) of the AU's Constitutive Act, a Peace and Security Council was established within the Union through a protocol as a standing decision making organ for the prevention, management and resolution of conflicts.²⁶¹ The Peace and Security Council is guided by peaceful settlement of

²⁵⁷ S. Touval, 'Why the UN Fails', *Foreign Affairs*, Vol. 73, No. 5 (Sep. – Oct. 1994), pp. 44-57: 46

²⁵⁸ *Ibid*

²⁵⁹ A. Adeleke, *op cit* (fn. 236), p. 571

²⁶⁰ *Ibid*

²⁶¹ Article 2, Protocol Relating to the Establishment of the Peace and Security Council of the African Union

disputes and conflicts and is a collective security and early-warning arrangement to facilitate timely and efficient response to conflict and conflict situations in Africa.²⁶²

Some regional and sub regional organizations whose their mandate during the Cold War restricted their interactions to purely economic matters had to amend their constitutive charters to allow them to intervene in post Cold War civil wars which were threatening to derail development efforts, for example ECOWAS member-states in 1990 included management of political issues confronting West Africa as part of the organization mandate in order to be able to intervene in the civil war which had broken out in Liberia.²⁶³ Likewise Inter-Governmental Agency on Development and Desertification (IGADD) charter was amended in April 1996 to give the institution a conflict management mandate after it found itself increasingly preoccupied with issues of conflict management particularly the Sudan conflict yet it was not authorized to do so but it had to because development can not be realized in an environment of pestering conflicts.²⁶⁴ IGADD was set up by states of Horn of Africa, Kenya, Uganda, Ethiopia, and Eritrea to develop joint approaches of dealing with common problems, especially those related to life threatening drought and the attendant threat of desertification.²⁶⁵ The amendment saw IGADD become Inter Governmental Authority on Development (IGAD) with the belief that the broad phraseology 'development' encapsulates wider concerns including conflict management.²⁶⁶

²⁶² Ibid

²⁶³ A. Adeleke, op cit (fn. 236), p. 569

²⁶⁴ M. Mwangiru, *The Greater Horn of Africa Conflict System: Conflict Patterns, Strategies and management Practices* (Paper Prepared for the USAID Project on Conflict and Conflict Management in the Greater Horn of Africa, April 1997, Revised September 1997, p. 9

²⁶⁵ Ibid

²⁶⁶ Ibid

4.4 Management of Kenya's 2007 Post Election Violence

The Kenya's 2007 post election violence posed a management challenge to sub regional organizations which Kenya is a member, that is, East African Community (EAC) and IGAD. The dilemma laid in the fact that none of the member-states of these organizations had hegemonic interests and capability to spearhead intervention as Nigeria did in pushing ECOWAS to intervene in Liberia's civil war and the USA's orchestration of the UN to intervene in Lebanon in 1978. Lack of interest by member states of EAC and IGAD to intervene in Kenya's post election violence was captured by Tanzanian President Jakaya Kikwete when he termed the post election violence as a Kenyan problem which should be solved internally. He is quoted to have said in an interview with the BBC that

'it is they (Kenyans) fighting one another. They are best placed to look for solutions to their own problems. We can only intervene when our interests are at stake or if they ask for our assistance'.²⁶⁷

When the sub regional organizations showed no interest in intervening and the warring parties, President Mwai Kibaki of Party of National Unity (PNU) and Raila Odinga, Presidential Candidate Orange Democratic Movement (ODM) grew increasingly intransigent to internal calls for ending of the violence which was getting worse by the day, it was left for the international community to decide the fate of Kenya. The UN and AU had started to urge the two leaders to resolve their electoral disputes amicably way before it became clear that the EAC and IGAD were reluctant to intervene.²⁶⁸ The UN Secretary General Ban Ki-moon urged Kenyan leaders and political parties to resolve their differences peacefully through dialogue and by making full use of the existing legal mechanisms and procedures while the AU appealed for calm and asked leaders to

²⁶⁷ Earnest Mpinganjira, 'EAC Unable to Intervene in Crisis' *The Sunday Standard*, 20th January, 2008, p. 25

²⁶⁸ M. Mwangi, *The Water's Edge: Mediation of Violent Electoral Conflict in Kenya* (Nairobi: Institute of Diplomacy and International Studies, 2008), p. 19

embrace dialogue and consultation, and indicated its availability to assist in ending the dispute.²⁶⁹

This came to pass when Ghanaian President John Kufuor and AU Chairman made three-day official visit to Kenya which culminated in the creation of a team of mediators headed by former UN Secretary General Kofi Annan and under the auspices of the AU.

4.5 Actors and their Role in the AU-Led Mediation of Kenya's 2007 Post Election Violence

Traditional analyses of mediation assumed that only immediate parties to a conflict are involved and interested in a conflict and its outcome.²⁷⁰ Wall has disabused this assumption by suggesting a mediation paradigm in which mediation environment includes not just the parties to the conflict but also the mediator and the constituents of both the parties and the mediator. For example in multilateral mediation in Namibia, the new US Carter administration as a mediator in Namibia conflict made it known to other mediators (UK, Canada, Germany and France) that America's continued commitment to Namibia negotiation was conditioned on the linkage between a Namibia settlement and withdrawal of Cuban troops from Angola. The constituents or actors seek to influence the mediation outcome to advance their vested interests.²⁷¹ The Namibia negotiation was a means to extend US influence in Africa. While the internal actors may have been driven by patriotism or desire to gain international recognition as peacemakers, the urgency in which international actors reacted to Kenya's post election violence showed that there was a lot at stake for them. The stakes for an end to the violence went beyond Kenya, whose political and economic health is an essential ingredient for the security and prosperity of Eastern and Central

²⁶⁹ Ibid

²⁷⁰ J. A. Wall, 'Mediation: An Analysis, Review and Proposed Research', *Journal of Conflict Resolution*, Vol. 25 (1981), pp. 157-180:158

²⁷¹ Ibid

Africa and indeed for how the entire continent's future is assessed by investors.²⁷² Kenya's stability determines regional access to energy supplies and basic commodities and guarantees a relatively safe environment for hundreds of thousands of Somali and Sudanese refugees.²⁷³ Philip Yona Jambí, Government of Southern Sudan Minister for Rural Development captured the dilemma they faced when he said

We are developing the development of the negotiations with keen interest. The outcome of the talks will determine the progress of Southern Sudan reconstruction which is now at risk... Life has become so expensive in Sudan. Essential commodities are so expensive. There were times when we did not have fuel. We get our fuel from the Port of Mombasa through Uganda. But given that the highways are impossible, fuel is taking longer to reach Sudan.²⁷⁴

The UN, AU and other regional organizations were concerned that instability in Kenya was a setback to the management of conflicts in the Horn of Africa. Despite the perennial ethnic clashes in the multiparty era, Kenya was largely seen as an island of peace in a region rocked with bloody civil wars. Kenya had been known not to take its stability for granted because instability in neighbouring countries can cause infiltration of small and light arms into the country due to porous borders. Therefore, it has been in the forefront in initiating peace processes in war-torn neighbouring countries, for example, it successfully mediated between John Garang's Sudanese People Liberation Movement (SPLM) representing Southern Sudan and President Bashir's Khartoum's government (Northern Sudan) ending a protracted civil war that had rocked Sudan generating refugees majority of whom hosted in Kenya. A Comprehensive Peace Agreement (CPA) was signed in 2005 providing for a referendum to be carried out next year (2011) for the Southern Sudan to secede from the Northern Sudan. Kenya has also been actively involved in

²⁷² Kenya in Crisis Africa, International Crisis Group, Report No. 137, February 21, 2008, <http://www.crisisgroup.org/en/regions/africa/horn-of-africa/kenya/137-kenya-in-crisis.aspx> (Accessed August 13, 2010)

²⁷³ Ibid

²⁷⁴ B. Adero, 'Sudan calls an end to crisis: The Southern Sudan reconstruction is at risk unless political crisis in Kenya is resolved', *The Standard*, February 2, 2008, p. 4

peace initiatives geared towards ending civil war in Somalia. Other international organizations and individual countries had divergent reasons for seeking end to the post election violence. In addition to their attention being drawn by violation of human rights some had vested interests ranging from trade relations to Kenya being strategically placed to deal with pirates at the Somali waters. These interests were threatened by the post election violence and statements issued by the international actors captured their desire to have the root causes of the violence addressed.

In the AU-led mediation of Kenya's post-election violence there were internal and external actors. The internal and external (international) actors applied leverage first to make the political crisis ripe for resolution. According to Zartman the success of mediation is tied to the perception of creation of ripe moment in conflicts.²⁷⁵ Ripe moments are commonly conceived as of periods of time under which conflict management is most likely to be achieved.²⁷⁶ By the time the AU- lead team was embarking on mediation exercise the two warring parties were not ready to engage in negotiations and application of leverage came in hand to force them to abandon their hardline positions and enter into negotiations. Secondly, leverage was used to force the two parties to compromise and reach a favourable accommodation on critical issues. Leverage as used here refers to the application of diverse resources to exercise control of mediation process and its outcome.²⁷⁷ Resources include promises of financial reward, threats of sanctions, deployment of peacekeeping troops, and issuance of travel bans to leaders. In supporting the application of leverage in mediation Zartman²⁷⁸ argues that it is not the degree of formal authority to decide that

²⁷⁵ I. W. Zartman, *Ripe for Resolution: Conflict and Intervention in Africa* (New York: Oxford University Press, 1989), p. 272

²⁷⁶ J. M. Greig, 'Moments of Opportunity: Recognizing Conditions of Ripeness for International Mediation Between Enduring Rivals', *The Journal of Conflict Resolution*, Vol. 45, No. 6 (Dec., 2001), pp. 691-718:692

²⁷⁷ M. Mwangi, (2008), op cit (fn. 268), p. 75

²⁷⁸ I. W. Zartman, op cit (fn. 275), p. 9

determines the relative effectiveness of third party conflict resolution, but the informal power to make the parties decide. The informal power is leverage.

4.5.1 Internal Actors and their Limited Leverage

Internal actors in the form of Non governmental organizations and the civil society petitioned President Mwai Kibaki and ODM leader Raila Odinga to end the violence and resolve the political crisis brought about by the disputed presidential election results amicably. After violence broke out, some renowned Kenyans among others, Amb. Bethuel Kiplagat and Lt. Gen. Lazaro K. Sumbeiywo formed a group 'Concerned Citizens for Peace' to petition President Kibaki and ODM leader Raila Odinga to quickly resolve the political crisis and end the violence. A statement issued by Amb. Kiplagat and directed to the two leaders read in part

The situation is very, very critical. One death is too many but already more than 100 have died... The only solution that will help us is dialogue. We don't want to sweep the issues under the table, but bring them out into the open. Negotiate them. Find a solution which is acceptable to all and that will enable us to move forward as a nation.²⁷⁹

Amb. Kiplagat's appeal for dialogue was supported by Lt. Gen Lazaro Sumbeiywo's statement targeting Kenyans and issued on the same day 'we would like to urge Kenyans to hold on as we encourage our leaders to enter into dialogue. This is the only peaceful solution and so far we have managed to encourage dialogue between both sides'.²⁸⁰

The civil society under their umbrella organization Constitution and Reform Education Consortium issued a statement singling out ethnic politics as the cause of the violence. It read

We maintain that Kenya no longer belongs to Kenyans but to a bunch of ethnically inclined politicians, the bureaucracy which is beholden to the ethnic elite and state instruments of coercion, which are issuing decrees on behalf of the ethnic elite. Furthermore and unfortunately so, due to this crisis of legitimacy, Kenya's population of IDPs has doubled from 431,000 as of June 2007 to more than one million.²⁸¹

²⁷⁹ B. A. Kiplagat, 'The Only Solution is Dialogue', *Daily Nation*, 7th January 2008, p. 19

²⁸⁰ L. K. Sumbeiywo, 'Please Help One Another', *Daily Nation*, 7th January 2008, p. 19

²⁸¹ 'Reclaiming the Constitutive Power of the Kenyan People', *The Standard*, 14th January 2008, p.21

The internal actors largely concentrated persuasive messages devoid of threats of taking any action because they lacked the required leverage to force the two leaders to resolve the political crisis amicably and end the violence. Furthermore some of the civil society organizations were perceived to be partisan. Their appeals for dialogue therefore were not taken as seriously as those of the international actors.

4.5.2 The UN and other International Actors' Heavy Handed Leverage

Kenya's post election violence was not an internal affair being managed solely by AU-led panel of eminent persons led by Kofi Annan. First it was internationalized the moment the then AU Chairman John Kufuor visited Kenya and announced the AU willingness to bring the President Mwai Kibaki and ODM leader Raila Odinga to a negotiating table. Secondly it was internationalized the moment the human rights of some Kenyans begun being trampled upon as they were killed, maimed for life and rendered refugees in their own country. The international actors provided the much needed leverage to ensure the two leaders entered into negotiations and compromised even as some of their party members took hard line positions.

Although the international actors issued statements separately they were systematic, reinforced each other and were meant to either disempower the two sides or disempower the government while at the same time empowering the ODM. For example, the US and the EU issued statements separately targeting the government warning it that they cannot conduct business as usual in Kenya unless a political compromise is made to stop the violence. The two were reacting after peace talks led by AU Chairman John Kufuor hit a deadlock after the two sides trading accusations; President Kibaki team accusing Raila group of being unresponsive while

ODM team accused President Kibaki of failing to honour mediation.²⁸² US Assistant Secretary of State for Africa Affairs Jendayi Frazer weighed in to unlock the deadlock by issuing a statement which read in part 'the US cannot conduct business as usual in Kenya. The Kenya people recognize that the post-electoral crisis has revealed long standing problems that cannot be ignored'.²⁸³ A day after the EU presidency joined the US in cautioning Kenya that it won't be business as usual. A declaration by the EU presidency on behalf of the EU concerning the AU mediation efforts read

All political parties in Kenya should recognize that it cannot be business as usual in Kenya until there is a political compromise which leads to a lasting solution that reflects the will of the Kenyan people, wins their confidence, and helps return Kenya to stability.²⁸⁴

The EU also threatened to reduce aid to Kenya if a solution is not found over the disputed presidential election. The EU Development Commissioner Louis Michel told a meeting of the European's Parliament Development Committee 'it is difficult to continue on the same level of budgetary support if we see that the election has not been fully respected'.²⁸⁵ The UN also put pressure on the two sides to negotiate. The UN Secretary General Ban Ki-moon while addressing AU summit in Addis Ababa called on President Kibaki and ODM leader Raila Odinga to do everything to resolve the crisis. He asked the summit to 'urge and encourage the leaders and people of Kenya to resolve their differences through dialogue and respect for democratic process'.²⁸⁶ The international actors made statements in the period preceding the jetting in of former UN Secretary General Kofi Annan to continue from where AU Chairman Kufuor had left. Their pressure bore fruits as the two sides agreed to negotiate and end the political crisis.

²⁸² M. Munene & B. Namunane, 'Peace Talks Deadlock', *Daily Nation*, 11th January 2008, p.1

²⁸³ P. Murigi, 'A Week of Hard Options: Which Way Kenya? EU Joins US in Issuing Warning over Handling of Crisis', *The Standard*, 14th January 2008, p. 1

²⁸⁴ Ibid

²⁸⁵ J. Adan & E. Fortunate, 'EU warns of donor support', *The Standard*, 16th January 2008, p. 10

²⁸⁶ B. Moody & D. Wallis, 'Global talks focus on Kenya: Country's violence dominate talks at the AU and the UN Security Council', *Daily Nation*, 1st February 2008, p. 64

The international actors weighed in again with threats after the mediation process hit a deadlock on the way forward on Agenda Three on the disputed re-election of President Kibaki. US and Canada threatened to ban top leaders considered to be subverting democracy from travelling to their countries. Canada defended their intended action by stating 'with respect to official contact and visits, Canada law precludes the admissibility to Canada of foreign nationals considered responsible for subverting democratic institutions and processes'.²⁸⁷ Through its Ambassador to Kenya Michael Rannerberger, US said it had identified high profile personalities in government and opposition who would be slapped with a visa ban on suspicion of fanning ethnic violence.²⁸⁸ The visa ban threats targeted hardliners in both sides who were suspected to be hell bent in derailing negotiations on Agenda Three. Two days after the US made good of its threat by banning what it referred as ten high profile PNU and ODM personalities from travelling to the US over alleged links to the post election violence.²⁸⁹ On its part Commonwealth enticed the government to soften its stand. While meeting Vice President Kalonzo Musyoka in UK, Commonwealth Secretary General Don Mckinnon promised that Commonwealth will help Kenya strengthen its institutions to restore confidence in them.²⁹⁰ Also to force the government to soften its stand, Director General of the UN office in Nairobi said the fate of the UN Environmental Programme (UNEP) Headquarters in Nairobi depended on the outcome of the mediation.

I am afraid the challenges facing this country mean that this UN global headquarters is not functioning optimally, so our work in other parts of the world is also adversely impacted. We are now operating under phase two of heightened alert. Our next course of action would depend on the outcome of Kofi Annan-led mediation.²⁹¹

²⁸⁷ US, Canada ban threat as talks register gains', *The Standard*, 5th January 2008, p.1

²⁸⁸ Ibid p. 3

²⁸⁹ J. Adan, 'MPs banned from US', *The Standard*, 7th February 2008, p. 1

²⁹⁰ P. Opiyo, 'Commonwealth to help in restoring democracy', *The Standard*, 7th February 2008, p. 3

²⁹¹ US, Canada ban threat as talks register gains', *The Standard*, 5th January 2008, p. 3

The pressure by the international actors saw the government soften its stand and the two sides agreed to continue talks Agenda Three on resolving the political crisis. When the talks hit deadlock on power sharing structure, the international actors upped their pressure on the two sides. The US Secretary of State Condoleezza Rice in a statement threatened that the future of Kenya's relationship with the US depended on the mediation outcome. She said

The US is a strong friend and partner of Kenya. Since the outset of the electoral crisis, we have urged a political solution acceptable to Kenyan people... I want to emphasize the future of our relationship with both sides and their legitimacy hinges on the co-operation to achieve the political solution. We'll draw our own conclusions about who is responsible for lack of progress and take necessary steps. We'll also exert leadership with the UN, AU, EU and others to ensure that the political solution the Kenyan people deserve is achieved.²⁹²

The international actors applied leverage to unblock deadlock and reach an outcome favorable to the allies and to some extent to some of the constituents.²⁹³

4.6 The AU-Led Mediation of Kenya's Post Election Violence

The AU intervention in Kenya's post election violence was in line with its constitutive Act. The AU is empowered by its Constitutive Act to intervene and manage internal conflicts afflicting its state parties. Article 24 reads

When a situation arises in a state party that may affect its democratic political institutional arrangements or the legitimate exercise of power, the Peace and Security Council shall exercise its responsibilities in order to maintain the constitutional order...

Also the intervention was particularly in line with Article 13 on Culture of Democracy and Peace and Article 17 on Democratic Elections. Article 13 states that state parties shall take measures to ensure and maintain political and social dialogue as well as public trust and transparency between political leaders and the people, in order to consolidate democracy.²⁹⁴ Kenya fell short of this as the two leaders, President Mwai Kibaki (2007 Party of National Unity (PNU) presidential

²⁹² R. Condoleezza, 'Rice statement on talks', *The Standard*, 27th February 2008, p.5

²⁹³ M. Mwangi (2008), op cit (fn. 268), p. 75

²⁹⁴ See Article 13, African Charter on Democracy, Elections and Governance

candidate) and Raila Odinga, Orange Democratic Movement (ODM) 2007 presidential candidate, were not willing to enter into dialogue and iron out their differences. In Article 17, AU state parties re-affirm their commitment to regularly hold transparent, free and fair elections in accordance with the AU's Declaration on the Principles Governing Democratic Elections in Africa.²⁹⁵ The 2007 post election violence arose out of a contested presidential election outcome in which several election observers declared it was not free and fair. Therefore, the situation in Kenya was ripe for AU intervention. The AU panel of imminent persons led by former UN Secretary General Kofi Annan chose mediation, a pacific conflict resolution procedure, to manage Kenya's post election violence. In the pre-mediation phase, four issues were singled out to be the agenda for the mediation, that is, immediate action to stop violence and restore fundamental rights and liberties; immediate measures to overcoming the political crisis; and long-term issues and solutions.

4.6.1 The AU-Led Mediation Outcome: From Conflict Settlement to Conflict Resolution

Out of desire to end the post election violence, the mediation panel chose to deal first with political interests arising out of the disputed 2007 presidential election and thereafter address the long-term issues/needs of Kenyans. Essentially they agreed first to come up with a political settlement on Agenda One, Two and Three and later on advance to conflict resolution to Kenyan crisis under Agenda Four.

Agenda One was stopping the violence and restoring fundamental freedoms and liberties. Agenda Two involved taking immediate measures to address the humanitarian crisis, promote reconciliation, healing and restoration. Agenda Three sought to overcome political crisis brought about by the disputed presidential election result while Agenda Four touched on long-term issues

²⁹⁵See Article 17, African Charter on Democracy, Elections and Governance

and solutions.²⁹⁶ Even after signing of the National Accord and Reconciliation the fissures that fuelled the violence still remained intact. It is Agenda Four which sought to address them. On Agenda Four the parties agreed to undertake constitutional, legal and institutional reforms tackling poverty and inequality and combating regional development imbalances, tackling unemployment among the youth, consolidating national cohesion and unity, undertaking land reform, and addressing transparency, accountability and impunity.²⁹⁷

Settlement is anchored on the notion of power while resolution rejects power as the dominant framework for managing social relationships.²⁹⁸ Settlement is informed by the idea that given the anarchical nature of society, and the role of power in relationships, the best that can be done in situations of conflict is to reach accommodations which the parties in conflict are forced to live with.²⁹⁹ It is short-term, coercive and geared towards win-lose outcome. On the other hand resolution is non power based, and non coercive and is based on the belief that at the bottom of every conflict there are certain non negotiable needs whose their non fulfillment causes conflict.³⁰⁰ Agenda One, Two, and Three were settlement-oriented for they did not address the underlying causes of the violence but sought to end violence and bring normalcy. On February 28, 2008 President Mwai Kibaki, and ODM leader Raila Odinga signed a political settlement. Parliament enacted this as an amendment to the Kenyan Constitution as the Constitution of Kenya (Amendment) Act 2008, and as the National Accord and Reconciliation Act, 2008. There were also agreements establishing the Commission of Inquiry into Post Election Violence (CIPEV), the

²⁹⁶ A., Karen, 'Kenya: Struggling for peace', *BBC News, Nairobi*, <http://news.bbc.co.uk/2/hi/africa/7568784.stm> (accesses August 13, 2010)

²⁹⁷ M. Mwagiru (2008), op cit (fn. 268), p.117

²⁹⁸ M. Mwagiru (2000), op cit (fn 2), p.38

²⁹⁹ Ibid p. 40

³⁰⁰ Ibid p.41

Independent Review Commission (IREC), and related mechanisms to address other matters incidental to the settlement.

4.6.2 Agenda Four Commissions and Future Prospects for Peace in Kenya

The 2007 post election violence was triggered by contested presidential election result but beneath lay a combination of causes such as landlessness, unemployment, poverty, and unequal distribution of national resources. Agenda Four seeks a lasting solution to these problems through reforms tackling poverty and inequality, reforms combating regional development imbalances, reforms consolidating national cohesion and unity, reforms on land and reforms addressing transparency, accountability and impunity. Among the reforms, 67.6 per cent of respondents to the effectiveness of reforms consolidating national cohesion and unity were of the view that it is to a large extent an effective long term solution to Kenya's 2007 post election violence whereas 58.5 per cent of the respondents on reforms tackling poverty and inequality were of the opinion that it is to a large extent the effective long term solution (See Table 4.1). On reforms addressing transparency, accountability and impunity 58.9 per cent of the respondents were of the view that to a large extent they will be an effective long-term solution to Kenya's 2007 post election violence.

With all the reforms in Agenda Four of the National Dialogue and Reconciliation undertaken 61.8 per cent of the respondents held that the 2012 elections will be free of ethnic violence while 35.3 per cent were of the contrary opinion. Majority of those who held that 2012 will be free of ethnic violence argued that the underlying causes of ethnic violence will have been tackled by the envisaged reforms. However, they said political good will is necessary in undertaking the reforms. Those who said ethnic violence will recur in 2012 argued that politicians will always politicize ethnic conflicts to their advantage during elections.

Table 4.1: Long-term Solutions to Kenya's 2007 Post Election Violence

Solution	Response	Frequency	Per Cent
Reforms tackling poverty and inequality	Not at all	0	0
	To a less extent	4	11.8
	To a moderate extent	11	32.4
	To a large extent	19	58.5
	No response		
	TOTAL	34	100
Reforms combating regional development imbalances	Not at all	0	0
	To a less extent	6	17.6
	To a moderate extent	11	32.4
	To a large extent	17	50
	No response		
	TOTAL	34	100
Reforms consolidating national cohesion and unity	Not at all	1	2.9
	To a less extent	3	8.8
	To a moderate extent	9	26.5
	To a large extent	23	67.6
	No response		
	TOTAL	34	100
Land reforms	Not at all	0	0
	To a less extent	6	17.6
	To a moderate extent	11	32.4
	To a large extent	17	50
	No response		
	TOTAL	34	100
Reforms addressing transparency, accountability and impunity	Not at all	0	0
	To a less extent	1	2.9
	To a moderate extent	13	38.2
	To a large extent	20	58.9
	No response		
	TOTAL	34	100

Source: Research data

4.6.3 Human Needs Approach to Prevention and Management of Conflicts

The causes of many violent ethnic conflicts in the 20th Century such as in El Salvador, Guatemala, and Cyprus can be attributed to the suppression of human needs.³⁰¹ The Cyprus conflict, which has challenged the international community for over 40 years, is an identity-based conflict in which group identities and related needs have been expressed, frustrated, and threatened, leading to escalation and stalemate.³⁰² Formal mediation primarily by the United Nations has consistently failed to produce a settlement by which Greek Cypriot and Turkish Cypriot communities could rebuild their fragile political relationship. The parties remain locked in an adversarial frame that is self-perpetuating and mutually destructive and that might only be altered through a comprehensive and sustained unofficial track of conflict analysis and resolution that can overcome the trauma of the past and address the basic needs of the parties. This calls for a rethinking of the deterrence approach. The human needs framework shifts its unit of analysis from states to identity groups.³⁰³ The key focus in human needs framework is not the state as advanced by realists but individual human beings and groups as non-state actors. The framework also abandons state security for individual security with an emphasis that the security of the state is guaranteed after meeting individual security.

Some countries such as Japan have been in the forefront in championing human needs approach in resolution of conflicts. From World War II to the end of Cold War Japan did not allow itself Self Defense Forces (SDF) to join UN peacekeeping. Article 9 of its 1947 Constitution renounces war as a sovereign right of the nation and outlaws the maintenance of land, sea, and air

³⁰¹ H. Jeong, 2000, op cit (fn. 5), p. 71

³⁰² R. J. Fisher, 'Cyprus: The Failure of Mediation and the Escalation of an Identity-Based Conflict to an Adversarial Impasse', *Journal of Peace Research*, Vol. 38, No. 3, Special Issue of Conflict Resolution in Identity-Based Disputes (May, 2001), pp. 307-326: 307

³⁰³ J. W. Burton, 1985, op cit (fn. 93), p. 46

forces as well as other war potential.³⁰⁴ However, in 1992 Japanese government passed the Law Concerning Co-operation for United Nations Peacekeeping Operations and other Operations.³⁰⁵ The law enabled SDF to participate in UN peacekeeping operations in non combatant roles while observing the Japanese long-held distinction between international non military security contribution and the strictly military concept of security that pertains to Japanese defense and permissible military activities of SDF associated with that national security objective.³⁰⁶

The engagement of Japanese Self Defense Forces (SDF) is restricted as a result of the distinction between military and non military issues and its core notion of international peacekeeping is the idea of comprehensive security which is a broader concept which goes beyond the narrow traditional military.³⁰⁷ The non military activities include election monitoring, and provision of humanitarian relief. Japan upholds the behavioural considerations in the principal of inherent human needs which stress that law and order cannot be sustained on the basis of fear and threats, as championed by realists, without satisfying essential human needs.³⁰⁸

4.7 Challenges in the Management of Politicized Ethnic Conflicts

The challenges in management of politicized ethnic conflicts can be categorized into legal, institutional and political. The institutional and political challenges arise out of inherent weaknesses in charters, treaties and Acts establishing multilateral organizations. These challenges affect internal (state) management of conflicts as well.

³⁰⁴ P. Trezise, 'Japan's Peacekeeping Forces', *The Brooking Review*, Vol. 10, No. 4 (Fall, 1992), p. 56

³⁰⁵ In Japanese the shortened title is *Kokusai Heiwa Kyoryokuho* (International Peace Co-operation Law)

³⁰⁶ A. George, 'Japan participation in UN Peacekeeping Operations: Radical Departure or Predictable Response', *Asian Survey*, Vol. 33, No. 6, Japan: Redefining its International Role (Jun., 1993), pp. 560-575:566

³⁰⁷ Ibid

³⁰⁸ Ibid p. 52

4.7.1 Legal

The establishing charters of United Nations and regional organizations for example AU strictly dichotomize between domestic and international politics. The charters are grounded on the three principles of 1648 Westphalian state system, that is, states are sovereign, they have clear boundaries and they operate independently without external interference. The membership of these institutions is restricted to states and their task is to manage conflicts that would inevitably arise between states. In the post Cold War period these institutions have been in dilemma whether to ignore sovereignty principle and intervene in internal state affairs of their member country. This has been a big challenge especially in the post Cold War period where inter-state wars have reduced while intra-state wars have increased. Furthermore the UN and regional organizations intervention in civil wars elevates non-state actors, in this case ethnic groups and their leaders) and gives them legal recognition contrary to the wishes of the leadership of the state in turmoil. War lords crave for this recognition for they know that it is through such recognition that they are able to achieve their goals.

The dichotomy problem is compounded by recognition of self determination as an inherent right of people in a state. The UN ideal persists in the belief that the sovereignty, territorial integrity, and independence of states within the established international system, and the principle of self determination for people – both of great value – are compatible.³⁰⁹ The principle of national self determination is acknowledged in Articles 1 (2) and 55 of the UN Charter and also in several UN General Assembly resolutions. Examples are paragraph 1 of the 1960 Declaration of Granting of Independence to Colonial Countries and Peoples and Resolution 3236 of the UN General Assembly (November 1974) which reaffirmed the inalienable right of the Palestinian people to self

³⁰⁹ D. Carment & P. James, 'The United Nations at 50: Managing Ethnic Crises. Past and Present', *Journal of Peace Research*, Vol. 35, No. 1 (Jan., 1998), pp.61-82:63

determination.³¹⁰ Clauses two and four of the UN Resolution 1514 reveal the inherent dilemma by stating that all people have the right to self determination, all armed action or repressive measures of all kinds directed against dependent people shall cease in order to enable them exercise peacefully and fully their right to self independence. Clause six further complicates the problem by stating that any attempt at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the UN Charter. This Resolution helps to clarify how the UN traditionally viewed the relationship between self-determination as a state building enterprise on the one hand and self-determination that could lead to the disruption of states on the other.³¹¹ Right to self-determination gives an increased sense of legitimacy to separatist movements and makes it less likely that a compromise will be found and instills nationalist pride and prejudice in the dominant ethnic group.³¹² Calls for self determination are usually resisted by incumbent authorities because of the threat perceived to the state's political, economic and territorial integrity. They lead to bloody confrontation between the agitators and the heavily armed state. For example in 1967 Ibos, an ethnic group in Nigeria tried unsuccessfully to have a Biafra state carved for them from the larger Nigeria.³¹³ The Nigerian government resisted the move leading to lose of live because the secession of Biafra would have taken from Nigeria not just the Ibo people but also much of the natural resource base and industrial capacity.³¹⁴

4.7.2 Political

The UN Security Council takes action to an internal or intra-state conflict depending on the extent to which the conflict in question poses a threat to regional peace and security and the

³¹⁰ S. Ryan, 'Explaining Ethnic Conflict: The Neglected International Dimension', *Review of International Studies*, Vol. 14, No. 3 (Jul., 1998), pp. 161-177: 168

³¹¹ D. Carment & P. James, op cit (fn. 309), p. 63

³¹² S. Ryan, op cit (fn. 310), p. 169

³¹³ J. Walters & R. Stevens, *The Logic of International Relations*, 4th edition (Boston: Little Brown Co., 1982), p. 363

³¹⁴ Ibid

political wishes of the members of the Security Council particularly the permanent five.³¹⁵ This is not enshrined in the UN Charter rather it is a principle which has grown out of practice and perfected in the Cold War period.³¹⁶ It is no doubt that internal wars pose a threat to not only regional peace but also world peace. However, the dilemma lies with the balancing act of the UN's permanent five members of Security Council between passing a resolution for the sake of intervention in internal conflicts or to advance their political and economic interests. This explains why the UN Security Council is quick to pass resolution for intervention in some war torn countries and not others.

4.7.3 Institutional

The UN's prevention and management of international conflicts like in other multilateral organizations is hampered by complex decision making procedures, the inability to effectively commit scant state resources, and hence insufficient flexibility and leverage.³¹⁷ For crucial decisions to be taken in multilateral organizations there is a requirement that the organ dealing with security issues pass a resolution to that effect. In the UN, the Security Council decides whether or not the organization will intervene in a conflict and for a resolution to pass, the permanent five members have to endorse it.³¹⁸ A veto by one member blocks the UN intervention. Furthermore even when the Security Council cannot compel member-states to implement resolutions adopted under Chapter VI on pacific settlement of disputes.³¹⁹ On peace enforcement the UN members are obligated to make available the necessary armed forces.³²⁰

³¹⁵ C. de Jonge Oudraat, op cit (fn. 16), pp. 491-492

³¹⁶ Ibid

³¹⁷ S. Touval, op cit (fn. 257), p. 55

³¹⁸ Article 27(3) of the UN Charter

³¹⁹ Thakur, R, op cit (fn. 251), p. 389

³²⁰ Article 43 of the UN Charter

Unlike in an inter-state war, intra-state wars are less structured with no clear leadership structure. Civil wars are complex and pose challenges of co-ordination in their management. Although there may be a hierarchy of command for those involved, their details are not in the limelight. Also they do not have a registered physical office address where they can be contacted for they operate as underground movements who mostly assault civilians when least expected and go under to plan another attack. Their desire is to draw attention to the authorities by bringing untold suffering to the civilians who are ordinarily under protection of the authorities.

Violence is the language ethnic groups use to pass a message to their adversaries and employing the same against them is playing to their tune. Unlike states, ethnic groups have neither diplomats nor armies and therefore may have to escalate their demands through violence. As a result the main issue is how acute conflict can be transformed and channeled into less violent and constructive patterns of association prior to the onset of escalation.³²¹

Although ethnic groups have limited resources compared to states, like other non state actors they are risk takers unlike states which are risk averse.³²² The polarization of the ethnic groups by political elites through political party lines increases their propensity to take risks. Essentially this means that the use of coercion or force may work for inter-state conflicts but for ethno political conflicts it may be counterproductive. Reliance on the threat or use of military intervention to solve internal conflicts that are rooted in exploding ethnic antagonism reflects a fundamental failure of the international community and the United Nation's own mandate to save the humankind from the scourge of war.³²³

³²¹ F.T. Liu op cit (fn. 230), p. 50

³²² R. W. Mansbach, Y. H. Ferguson & D. E. Lampert, *The Web of World Politics: Non state Actors in the Global System* (Eaglewood Cliffs, N.J: Prentice-Hall, Inc., 1976), p. 278-282

³²³ Ibid p. 154

CHAPTER FIVE

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 SUMMARY

The overall objective of the study was to find a better way of managing ethnic conflicts as an aspect of national and regional conflicts. Drawing from interest theory of government, peace research paradigm and human needs theory the study looked at politicization of ethnic conflicts in Kenya, failure by the government to manage them which culminated in the 2007 post election violence and the eventual intervention by the international community. Interest group theory of government is used to explain the ethnic competition for power in Kenya's elections which nearly exploded into a civil war after the country was engulfed in a vicious ethnic violence following the disputed 2007 presidential elections. Peace research paradigm is used to examine the dismantling of anomalous legal and institutional structures in Kenya as envisaged in Agenda Four of the National Dialogue and Reconciliation. Human needs theory is used to show that the best approach in prevention and management of politicized ethnic conflicts is by meeting people's physical and psychological needs.

The literature review concentrated on review of scholarly contribution in ethnic heterogeneity of states, origin and causes of ethnic conflicts, ethnic diversity and ethnic conflict, internationalization of conflicts and persistence of ethnic conflicts in the post Cold War period. An ethnic community was defined as a named human population with a myth of common ancestry, shared memories, and cultural elements; a link with a historic territory or homeland; and a measure of solidarity. Majority of the states in the world were found to be ethnically heterogeneous. However, it was found out that there is no relationship between ethnic diversity and ethnic conflict. This is because some states are ethnically heterogeneous yet they have been rocked with protracted

internal conflict in some cases clan-based, for example Somalia. Other states have enjoyed relatively peace for example Tanzania yet they are ethnically heterogeneous. The primordialist and constructivist debate on the origin of ethnic conflict was analyzed to find out why ethnic diversity in some states leads to conflicts while it is not the case in others. Also in the literature review the internationalizing agents of internal conflicts were analyzed as well as the weakening of states due to the curtailment of Soviet Union and the US of their commitments of military and other state strengthening resources in the post Cold War period.

Chapter Two provides an historical background to the politicization of ethnic conflicts in Kenya. It traces the origin of structural violence pitting ethnic groups in Kenya to colonial period. The chapter also analyses anomalous legal and constitutional structures inherited from colonial powers through the Lancaster conference and various amendments which over the years have created an imperial presidency. Secondly, it analyses the manifestation of the structural violence into physical violence in 1992, 1997, and 2007 general elections. It is argued that structural conflict pitting ethnic groups exists in Kenya over land, poverty, and unequal distribution of senior government appointments and resources. It is this structural conflict that political parties ride on to mobilize ethnic support thus evoking ethnic emotions which explode into ethnic clashes.

Chapter Three examines the attempts made by the government to prevent and manage the politicized ethnic conflicts. The chapter first traces the use of force by the government to retain and control power to the colonial period. Secondly, the chapter examines the use of force by the government to crackdown on agitators of multipartyism. Thirdly, it analyses the state complacent and complicity in perpetuation of politicized ethnic conflicts. Failure by the government to prevent and manage politicized ethnic conflicts led to the international community to intervene and end the 2007 post election violence.

Chapter Four opens by analyzing UN's pacific settlement methods of conflicts and peace enforcement measures. Examples are given where the two approaches have been used by the UN and regional organizations to manage conflicts. The chapter analyses the use of leverage by internal and international actors to pressure PNU's President Mwai Kibaki and ODM's Raila Odinga to enter into negotiations and reach accommodation on contentious issues. It is argued that the international community responded with urgency to Kenya's political crisis partly to secure and protect their vested interests. The chapter splits the four agendas into those which were geared towards settlement (Agenda One, Two and Three) and resolution (Agenda Four). The chapter examines Agenda Four commissions and future prospects for peace. Challenges encountered in the management of politicized ethnic conflicts such as non intervention of internal affairs of sovereign states are also analyzed.

5.2 CONCLUSIONS

It is the primary responsibility of any government to provide security to its people. Failure to do so leads to a security dilemma where individuals and organized groups including ethnic groups challenge the state's monopoly of instruments of violence. They seek to secure their future by arming themselves to fight perceived enemies whom they view as a threat to their survival. Despite international, regional and sub-regional organizations being mandated by their constitutive Acts to ensure peace prevails among their member-states, they face challenges as analyzed in the previous chapter in intervening in internal conflicts afflicting their member-states.

On the basis of available data pertaining to the first hypothesis (the more the degree of competition of political parties for power the more the politicization of ethnic conflicts), the study has found out that increased competition of political parties for power leads to political elites to resort to desperate measures to outdo their political competitors. The increase in competition is

informed by the overwhelming desire by political elites to secure power and enjoy the immense powers vested in the presidency. The increase in competition reduces political party nominations into a fiasco as those eyeing tickets abdicate internal party democracy and literally fight to be nominated by their parties. Those who fail to be nominated cry foul of the nomination process and jump ship to launch their own political parties which appeal to their ethnic kin. This is the reason why the number of registered parties has been increasing steadily since 1992 to reach a level high of about 168 in the 2007 general elections. The political elites know that in a society that cherishes 'we-versus-them', they can not achieve their political ambitions by embracing political party ideologies and campaign manifestos during elections.

On the second hypothesis (the higher the number of registered political parties the higher the intensity of politicized ethnic conflicts), the study found out that there is a positive correlation between the number of registered parties and the intensity of violence. A high number of registered political parties show an increase in desire by political elites to use their ethnic groups as launching pads to attaining leadership. When it became clear after the first two multiparty elections (1992 and 1997) that no one ethnic group can propel one of their own to top leadership, the politics of coalition building started in 2002. The first coalition party, National Rainbow Coalition (NARC) was launched prior the 2002 general elections. It was a grouping of political parties with each party representing an ethnic voting bloc.

The study found out that the extent to which the government uses deterrence measures to crack down on reformists and quell ethnic clashes determines the potential for politicization of ethnic conflicts. By using excessive force the government plays in the hands of ethnic war lords who use violence as a way of expressing their grievances to the authority.

On the fourth hypothesis (the lower the satisfaction of individual human needs the greater the potential for politicized ethnic conflicts), the study found out that low satisfaction of individual human needs, physical and psychological, by government leaves individuals and ethnic groups prone to manipulation by political elites to engage in politicized ethnic conflicts. In such cases members of ethnic groups and the ethnic group as a whole are meant to believe by their leaders that the government per se is not to blame for their woes but the president's ethnic group in its entirety. This sets a stage for ethnic clash as ethnic groups rise against each other questioning the status quo. The state legitimacy is challenged when those in authority fail to meet inherent needs of persons and groups.

5.3 RECOMMENDATIONS

Politicized ethnic conflicts during elections in Kenya emanates from unchecked combination of ethnic heterogeneity and political pluralism. Unless each ethnic group is elevated to attain statehood status, a move that is impractical, Kenya will remain ethnically heterogenous. Although political pluralism, a phenomenon which came about at the end of Cold War, can be replaced with one political party system it is credited with advancement of democratic culture, accountability and transparency in governance and it can not be done away with in the foreseeable future. Therefore as a measure to ensure ethnic heterogeneity and political pluralism coexist in a peaceful environment there is need for political parties to embrace and exhort political party ideologies and shun mobilizing political support through making ethnic appeals.

The government should shift its focus from national security to human security. National security as well as international security and world peace can not be guaranteed unless physical and psychological needs of individuals in a state are catered for and people are at peace with themselves. The government should discard the Cold War tendency of heavy spending in

sophisticated military hardware and channel a sizeable amount to satisfying individual human needs. Unlike in the Cold War period, the post Cold War threat to world peace is not inter-state conflicts but internal conflicts majority of which are ethnic in character and can best be handled by responding to real issues which make individuals prone to manipulation by political elites to engage into violence, that is, unsatisfied needs.

The international community should be guided by the letter and spirit of the UN in maintaining international peace and security rather than vested interests of individual states. Kenya was lucky that majority of the member-states of the UN and AU of which it is a member had interests which they felt were threatened by the 2007 post election violence. It is hard to believe what could have transpired if no action was taken by the international community. The country was courting a civil war and the timely intervention by the AU with the support of the UN saved Kenya from being added to the list of states torn by civil war with little or no intervention by the international community. Rwanda experienced genocide in 1994 and the international community has been blamed for failing to intervene and save thousands of people from being massacred.

Sovereignty should be tempered with the need to maintain international peace and security. In a world of interdependence where intra-state upheavals like politicized ethnic conflicts have far reaching implications to world peace, sovereignty should not be a hindrance to timely intervention by the international community to prevent and manage ethnic conflicts.

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Article 39, Chapter VII, United Nations Charter

Article 43, UN Charter

Article 52 of the UN Charter

Clause (1) of Article 33, African Charter on Democracy, Elections and Governance

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Appendix I:

QUESTIONNAIRE

This questionnaire is part of Boniface Muoka's research project titled '**Management of Politicized Ethnic Conflicts in the Post Cold War Period: A Case Study of Kenya, 1991-2008**'. Muoka is a 2nd Year student pursuing MA in International Conflict Management at the Institute of Diplomacy and International Studies (IDIS), University of Nairobi.

Information collected in this study is for academic research purposes and your answers will be treated with utmost confidentiality.

Most sincerely thank you in advance for taking time to read and complete the questionnaire

Respondent Details

- 1. Name
- 2. Province of Birth.....

A. Political Parties and Ethnic Violence

- i. Do you know how many political parties there are in Kenya? YES NO (tick one)
 - ii. If your response is 'Yes' to the above question, state how many.....
 - iii. What is your preferred number of political parties in Kenya?
 - iv. Explain why?
-

The following are some statements on political parties and elections in Kenya. To what extent do you agree with the statements? Use the key below to tick as appropriate.

[1] Not at all, [2] To a less extent, [3] To a moderate extent, [4] To a large extent

- I. Political parties in Kenya are ethnic [1] [2] [3] [4]
- II. Election campaigns in Kenya are ethnically-driven [1] [2] [3] [4]
- III. Introduction of multipartyism in 1991 is to blame for ethnic clashes [1] [2] [3] [4]
- IV. Use of force by police intensifies ethnic violence [1] [2] [3] [4]
- V. The higher the number of political parties the higher the intensity ethnic violence [1] [2] [3] [4]

B. Reasons for the Persistence of Ethnic Violence in Kenya

The following were found to be the causes of ethnic violence in Kenya by the Commission of Inquiry into Post Election Violence (CIPEV). To what extent do you agree with the causes. Use the key below to tick as appropriate.

[1] Not at all, [2] To a less extent, [3] To a moderate extent, [4] To a large extent

- a.) Historical land injustices [1] [2] [3] [4]
- b.) Unequal distribution of national resources [1] [2] [3] [4]
- c.) Failure to prosecute perpetrators of ethnic violence [1] [2] [3] [4]
- d.) Poverty [1] [2] [3] [4]
- e.) Large number of unemployed youth [1] [2] [3] [4]

Any other reason? (Please indicate)

.....

C. The Kofi Annan-Led Mediation of Kenya’s 2007 Post Election Violence

i.) Agenda Four of the Kofi Annan-led mediation of Kenya’s post election violence seeks to undertake constitutional, legal and institutional reforms on various areas as a long-term solution to the 2007 post election violence. To what extent do you agree that the following reforms will be effective in addressing the persistent ethnic violence in Kenya during electioneering period? Use the key below to tick as appropriate.

[1] Not at all, [2] To a less extent, [3] To a moderate extent, [4] To a large extent

- a.) Reforms tackling poverty and inequality [1] [2] [3] [4]
- b.) Reforms combating regional development imbalances [1] [2] [3] [4]
- c.) Reforms consolidating national cohesion and unity [1] [2] [3] [4]
- d.) Land reforms [1] [2] [3] [4]
- e.) Reforms addressing transparency, accountability and impunity [1] [2] [3] [4]

Any other area which requires reforms? (Please state).....
.....

ii.) In your opinion even with all the reforms in Agenda Four of the Kofi Annan-led mediation of Kenya’s post election violence undertaken, will 2012 elections and other future elections be free of ethnic violence. YES NO (tick one)

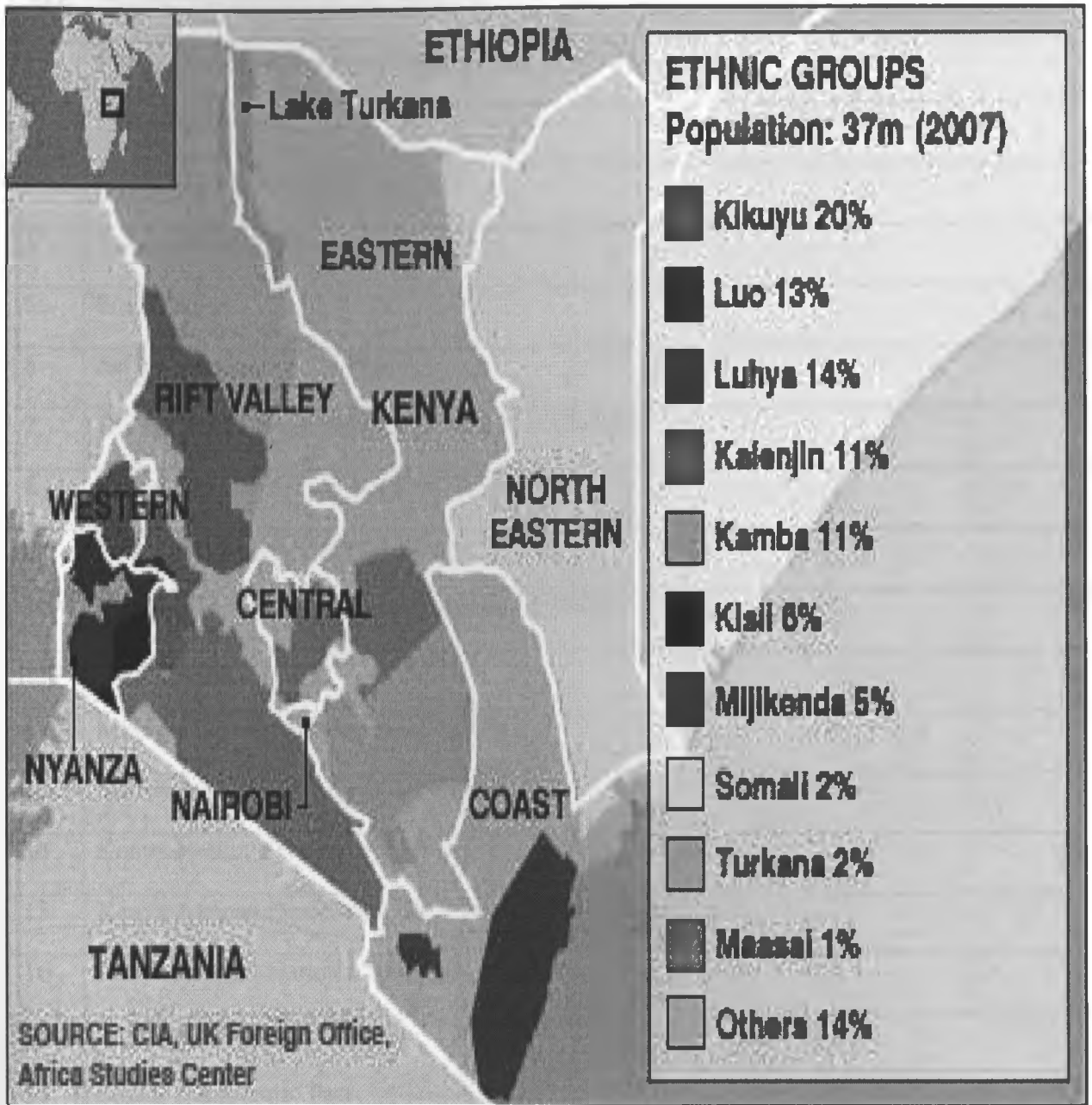
iii.) Explain your choice of response to the above question.....
.....

iv.) If your response is ‘NO’ to question (ii.) what is the best way of ending ethnic violence in Kenya.....
.....

ENDS

Appendix II

Map showing the distribution of various ethnic groups in Kenya



Source: <http://news.bbc.co.uk/2/hi/7212493.stm> (Accessed September 3, 2010)

Appendix III

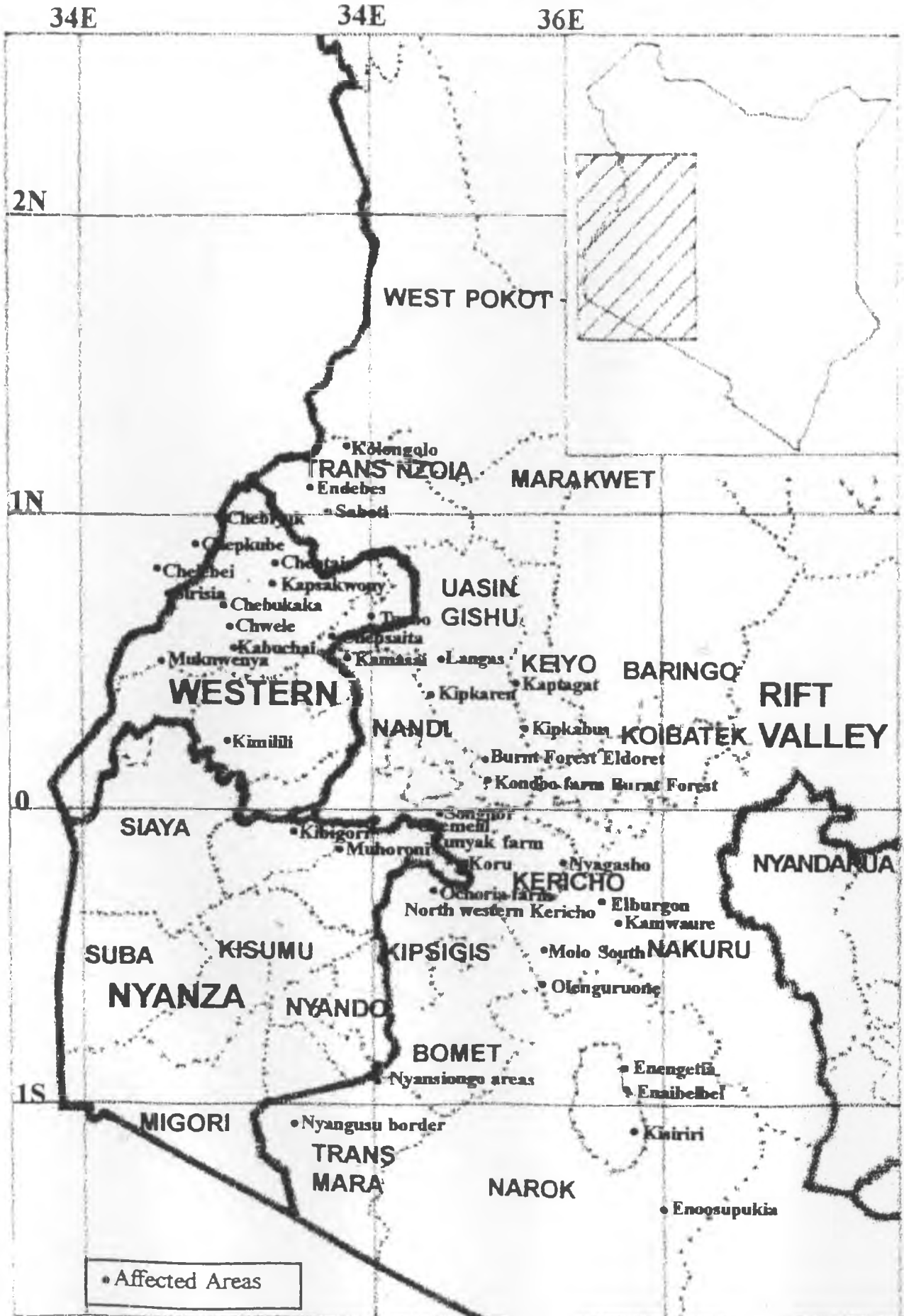
LIST OF REGISTERED POLITICAL PARTIES

NO.	NAME OF POLITICAL PARTY
1	Party of Independent Candidates of Kenya (PICK)
2	Narc-Kenya
3	Democratic Party of Kenya (DP)
4	Labour Party of Kenya (LPK)
5	Ford-Kenya
6	Safina Party
7	Orange Democratic Movement-Kenya (ODM-K)
8	Grand National Union Party of Kenya (GNU)
9	Mazingira Greens Party of Kenya
10	Kenya National Democratic Alliance (KENDA)
11	Ford-People
12	Mkenya Solidarity Movement (MSM)
13	National Alliance Party of Kenya (NAP)
14	Kenya National Congress (KNC)
15	Kenya African Democratic Development Union (KADDU)
16	Kenya African National Union (KANU)
17	New Ford Kenya (NFK)
18	Social Democratic Party of Kenya (SDP)
19	Orange Democratic Movement (ODM)
20	National Patriotic Party of Kenya (NPPK)
21	United Democratic Movement (UDM)

22	Peoples Democratic Party (PDP)
23	Party of National Unity (PNU)
24	Chama Cha Mwananchi (CCM)
25	National Rainbow Coalition (NARC)
26	Shirikisho Party of Kenya (SPK)
27	The National Vision Party (NVP)
28	New Democrats (ND)
29	Party of Hope (PH)
30	Nuru Party (NP)
31	Peoples Party of Kenya (PPK)
32	Chama Cha Uzalendo (CCU)
33	Alliance for the Restoration of Democracy in Kenya (Aford in Kenya)
34	Progressive Party of Kenya
35	National Party of Kenya (NPK)
36	National labour Party (NLP)
37	Muungano Development Movement (MDM)
38	Vipa Progressive Alliance (VPA)
39	Kenya African Democratic Union-Asili (Kadu-Asili)
40	Agano Party (AP)
41	The The Independent Party of Kenya (TIP)
42	Ford-Asili

43	National Agenda Party of Kenya (NAP-K)
44	Peoples Patriotic Party of Kenya (PPPK)
45	Farmers Party
46	Federal Party of Kenya (FPK)
47	Kenya Social Congress (KSC)

AREAS AFFECTED BY ETHNIC CLASHES



Source: Economy of Ethnic Clashes, A Report of the ICJ (Kenya Section), 2000