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POWER-SHARING IN RESOLVING AFRICA'S ELECTORAL CONFLICT

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DECLARATION

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

Signed .... Date ....

Douglas Katho

This project has been submitted for examination with my approval as University Supervisor,

Signed .... Date ....

Maria Nzomo Amb, Prof.

ACKNOWLEDGEMENT

DEDICATION

To my late brother, Moses Katho at only 23 years on 18th day of June 2005, he painfully breathed his last in a road traffic accident whilst at the verge of completing University education. The Lord giveth and taketh, blessed be the name of the Lord. Job 1:21

ABSTRACT

Power sharing has become a critical component of resolving Africa's electoral conflicts. The Kenya's mediation process in 2008 is case in point. This thesis analyzes power-sharing in ending Africa's electoral conflicts. It focuses on the issues and forces underlying the conception, interpretation, procedures and practices of power-sharing. In order to establish this role the study sought to examine the anatomy of electoral violence that engulfed Kenya before, during and after the highly disputed 2007 elections. Further, the study sought to link electoral violence and ethnic violence by examining the factors that led to the rise of ethnic-nationalism that affected Kenya before, during and after the general multiparty elections of 1992 and 1997. The study found out that there is a relationship between ethnic and electoral violence. In framing the theoretical background of this study, the research presented an understanding of power-sharing that draws from the three models of power-sharing – the consociational, incentivist, and tri-polar models. The study found out that ethnicity influences peoples political affiliations and voting behaviour. The study presents explanations for the adoption, implementation of power-sharing in ending electoral conflicts in Africa. The research undertaken was based on process tracing method, involving a re-description of history based on review of published and unpublished literature, government documents, and media reports as well as interpretation of other available data. The findings also reveal that power-sharing without any legal framework is incongruent with electoral violence and that a power-sharing arrangement does not necessarily end electoral violence. An important contribution to addressing the ethnic problem which is always manifested in electoral contestations is to put in place a legal mechanism to contain power-sharing. It is therefore important for conflict analysts and mediators who chose to resort to power sharing as a means of resolving electoral conflicts, to critically arrive at a mechanism, which are congruous. The study concluded that a consociation strategy for power-sharing is a tool in ending violent electoral conflicts in a multi-ethnic society like Kenya. The explanations for the power-sharing are guided by two analytical premises. The first premise underlines the relationship between the structure of electoral violence and ethnic violence. These structures are a convergence of interests of the dominant elite groups. The elite support for power-sharing is based on widely shared perception of the arrangement as the framework through which the various elite groups could realize their interests within non-violent distributive politics. The second explanation for the power-sharing is based on the premise that the consociation model of power-sharing employed to deal with ethnic conflicts can also be used to address electoral violence. Power-sharing in itself provides the context for the appeasement of the marginal groups in the course of elite struggles for power. This presents power-sharing as a tolerable modality of mediating elite competition, since it reflects the interests of both the dominant and marginal elite groups.

LIST OF ABBREVIATIONS

BBC – British Broadcasting Corporation

CIPEV - Commission of Inquiry into the Post-election Violence - 2008

DO - District Officer

DP – Democratic Party

ECK - Electoral Commission of Kenya

FORD - Forum for the Restoration of Democracy

GSU – General Service Unit

HRW – Human Rights Watch

ICC - International Criminal Court

ICJ-K - International commission of Jurists-Kenya Chapter

IMF – International Monetary Fund

IPK – Islamic Party of Kenya

IPPG – Inter Party Parliamentary Group

ISS - Institute for Security Studies

KADU – Kenya African Democratic Union

KAMATUSA – Kalenjin Maasai Turkana Samburu

KANU- Kenya African National Union

KICC - Kenyatta International Conference Centre

MP – Member of Parliament

NARC – National Rainbow Coalition

NCCK – National Council of Churches of Kenya

NDP – National Development Party

NEMU - National Election Monitoring Unit

ODM – Orange Democratic Movement

PNU – Party of National Unity

SADC - South African Development Cooperation.

SDP – Social Democratic Party

SLDF - Sabaot Land Defence Force

YK'92 – Youth for KANU 1992

ZANU-PF – Zimbabwe African National Union- Patriotic Front

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CHAPTER ONE: INTRODUCTION

Introduction

This chapter introduces the topic of the research study in a bird's eye-view by first setting the broad context of the research study, the statement of the problem, objectives, literature review, theoretical framework, hypothesis and the methodology of the study. It provides the contours of the research. It will systematize the materials presented by previous efforts to understand power-sharing. The chapter will specify the meaning of power-sharing and examine the relevant academic debates relating to power-sharing, providing a review of the three main models of power-sharing – consociational, incentivist, and tri-polar. These explanations will be based on two analytical premises - The first premise underlines the relationship between the structure of electoral violence and ethnic violence. The second explanation for the power-sharing is based on the premise that the consociation model of power-sharing employed to deal with ethnic conflicts can also be used to address electoral violence. These discussions will be followed by a description of the research methodology. The section on methodology will perform two sets of tasks. First, it will provide an account of the methods by which this study was carried out, giving some insights into the scope and nature of the research that was undertaken. Building on the theoretical discussion, the second task is to consider the kinds of lines and focus of investigation that are likely to prove appropriate to address the research questions raised in the study. This is intended to link the theoretical discussion with the practical observed findings.

Globally, scholars are becoming increasingly critical of the current formulation of power-sharing agreements. The past five years have seen the emergence of a new trend that has arrived largely unnoticed and has been the focus of little international dialogue; this is the application of power-sharing formulations, which have up till now been utilized as a tool of post-conflict

reconstruction and to instances of democratic deadlock and heightened civil tensions resulting from electoral crises[1]. In an attempt to mitigate intra-state conflicts and reduce the likelihood of a resurgence of conflicts, power sharing conditions have become an increasingly important factor in negotiations and peace agreements. Many conflicts in Africa are as a result of elections and or the outcome of such elections. Electoral contestations often results into electoral conflicts. An electoral conflict has a number of negative influences on individuals and on societies. Electoral conflicts not only trigger instability, undermine peace and security, but also postpone socio-economic development and the achievement of Millennium Development Goals[2].

Mukherjee uses a dataset that captures information regarding civil wars between 1944 and 1999, which counts 61 cases in which the ensuing peace agreement enshrined elements of power sharing.[3] The prevalence of power sharing, particularly in Africa, has increased significantly in the post-1999 period, with power sharing agreements being undertaken in Mali, Cote d'Ivoire, Liberia, Sierra Leone, Chad, Sudan, the Central African Republic, the Congo, the DR Congo, Djibouti, Somalia, Burundi, Angola, the Comoros, Zanzibar, Madagascar, Kenya and Zimbabwe in the decade between 1999 and 2009.[4] This research project grapples with this problem of electoral conflicts in Africa. It examines the anatomy of electoral conflicts by linking it to ethnic violence. It then probes into the utility and efficacy of the solutions crafted to address this problem which in particular includes power-sharing arrangements in which key antagonists in electoral conflict have come together and constituted transitional governments of national unity.

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[1]Cheeseman, N. & Tendi, B-M. 2010. "Power-Sharing in Comparative Perspective: the dynamics of 'unity government' in Kenya and Zimbabwe", in *The Journal of Modern African Studies*, 48;

[2] Violence in Africa," in K. Matlosa, G. Khadiagala and V. Shake (eds.) *When Elephants Fight: Preventing and Resolving Election-Related Conflicts in Africa*, (Johannesburg: EISA), p. 14

[3] Mukherjee, B. 2006. "Why Political Power-Sharing Agreements Lead to Enduring Peaceful Resolution of Some Civil Wars but not Others?" *International Studies Quarterly*, 50, pp. 479-504

[4] Mehler, A. 2009. "Introduction: Power-Sharing in Africa," *Africa Spectrum,* 44, 3, pp. 2-10

Statement of the problem

To achieve good governance, a country needs to have a credible election that is free and fair. There is no universal incentive on the part of many African leaders to organize or allow transparent elections and let the process take its course, let alone give up power when the results are unfavorable. The state loses its legitimacy and violent conflicts ensue when opposition groups feel done in by ballot-rigging. In a bid to resolve such a stalemate, the idea of non-coercive ways of resolving electoral conflicts by negotiations of peace agreements comes in handy. Power-sharing deals in Africa such as Kenya and Zimbabwe indicate that power-sharing agreements could be a successful means of building up a government and ending conflicts that may have cropped in as a result of a flawed electoral process. Power-sharing arrangements in post-election contexts are transitional arrangements, but could also become permanent features of governance architecture; there is no one size that fits all situations. While it may be seen as rewarding bad political behavior by despots and reluctant democrats, it also provides a face-saving mechanism in some political cultures and in which the alternative scenario could be one of destructive violence. The danger is that power-sharing arrangements are negotiated democracy and could become the end in itself, rather than a means to an end.

Objectives

1. To examine the anatomy of Kenya's electoral violence.

2. To assess the link between electoral violence and ethnic clashes in Kenya.

3. To analyze the role of power-sharing in addressing electoral conflicts.

Literature review

In the past two decades, power-sharing attracted tremendous attention in academic and policy discourse. This development can be attributed to the fact that in the 1990s, ethnic cleavages and

the quest for self-determination emerged as one of the most serious sources of violent conflicts in the world that which required very constructive management[5]. The salience of the power-sharing discourse stems from the opportunities provided by the wave of democratic transition in Africa, Asia, and Eastern Europe for constitutional engineering. The contemporary significance of power-sharing was however preceded by the development of arguments in the 1960s and 1970s that challenged a common assumption that democracy and political stability would be difficult to achieve in multi-ethnic societies. Behind this assumption is the notion that deep social divisions and political differences within plural societies are elements which would ensure perennial instability and breakdown of democracy. Nevertheless, this claim was challenged when it was shown that power-sharing can facilitate democratic stability in these societies. Three models of power-sharing can be discerned. The first is the consociational model which sees communal groups as the building blocks of a political order based on elite consensus and group autonomy[6]. The second model is the incentivist model which advocates the design of political institutions to provide incentives for elite and mass moderation. The third model is the tri-polar model which brings together the relevant attributes of the consociational and incentivist models, and highlights the need to broaden the scope of power-sharing to various spheres of governance such as territorial, economic, and political where groups may want to share power.

The consociation model was laid by Arthur Lewis who made one of the earliest calls for a re-think of the idea of impracticability of democracy. He distinguished between two types of

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[5] Lijphart, Arend 2002. "The Wave of Power-sharing Democracy", in A. Reynolds (ed) *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy*. Oxford: Oxford University Press.
[6] Bogaards, Matthijs 2006. "Democracy and Power-sharing in Multinational States: Thematic Introduction" *International Journal on Multicultural Societies*, 8(2): 119-126.

societies - plural society and class society.[7] Plural societies are divided by tribal, religious, linguistic, cultural and regional differences, and they are found in colonized territories of Africa, Asia and Latin America. On the other hand, class societies are societies in which social class is the key source of political identification and differentiation especially in Western Europe. Lewis argues that majoritarian democracy is inappropriate in plural societies because of the risk that prehistoric groups may be pre-occupied with competition between them. Arend Lijphart's consociational model builds on the ideas articulated by Arthur Lewis in that the political stability of consociational democracies is explained by the cooperation of elites from different groups which outdo each other at the mass level[8]. The consociational model explains democratic stability in such culturally fragmented and divided European societies as the Netherlands, Austria, Belgium, and Switzerland. Democratic stability in these countries is a product of deliberate efforts by the political elite to counteract the halting effects of cultural fragmentation[9]. Brian Barry critics that Switzerland is not a consociational democracy because the country was never a deeply divided society since political parties cross-cut and facilitate consensus rather than highly structured conflict of goals[10]. The institutions of referendum and popular initiative in Switzerland contradict the system of belief of consociational decision making.[11] In an attempt to explain democratic stability in plural European societies, Lijphart extended consociationalism to the rest of the world as the most promising means of achieving democratic stability.[12] The consociational pattern observed in Europe may contribute to stability if implemented in plural

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[7] Lewis, A. 1965. *Politics in West Africa*, London: Oxford University Press.
[8] Lijphart, Arend 1977. *Democracy in Plural Societies: A Comparative Exploration*. New Haven, CT: Yale University Press.
[9] Lijphart, Arend 1969. "Consociational Democracy", *World Politics* 21(2):207-225. 223
[10] Barry, Brian 1975. "Political Accommodation and Consociational Democracy" *British Journal of Political Science*, 5(4): 477-505.
[11] Lijphart, Arend 1979. "Consociation and Federation: Conceptual and Empirical Links" *Canadian Journal of Political Science*, 12(3):499-515.
[12] *Ibid*

societies elsewhere around the world. Attempts to extend consociationalism from an empirical to normative model have been hotly contested. Critics like Barry and Steiner have pointed out that European societies such as Switzerland are not good examples of consociational democracy; as such their experiences may not be applicable to plural societies elsewhere.[13] Horowitz cautioned that consociationalism might not be appropriate for deeply divided societies in the Third World because of the possibilities that group mobilization around massive, politically hostile organizations may create conditions for serious inter-group conflicts.[14] Lijphart responded to these criticisms by listing conditions that are favorable to the implementation of consociationalism, he added that the conditions are helpful but neither essential nor sufficient for the success of consociational democracy.[15] This equivocation, as Lustick[16] and Andeweg[17] noted, makes the conditions unverifiable and allows Lijphart to recommend consociationalism whether the conditions are favorable or not. Lijphart failed to develop a clear-cut definition of the concept of consociational decision making. Lijphart interpreted consociational decision making primarily as absence of competition without showing the causes of the lack of competition.[18] In light of Barry's comments, Ian Lustick proposed the control model as an alternative model for explaining stability in plural societies. He argues that unlike the consociational model which focuses on elite cooperation as the decisive element in decision making, the control model is characterized by the emergence and maintenance of a relationship in which the dominant group enforce stability by constraining the political actions and opportunities of the marginal groups.[19] Lustick claims that

[13] Steiner, Jurg 1981. "The Consociational Theory and Beyond" *Comparative Politics*, 13(3):339-354.
[14] Horowitz, Donald 1985. *Ethnic Groups in Conflict*. Berkeley: University of California Press.
[15] *Ibid*
[16] Lustick, Ian 1997. "Lijphart, Lakatos, and Consociationalism" *World Politics*, 50(1): 88-117.
[17] Andeweg, Rudy 2000. "Consociational Democracy" *Annual Review Political Science*, 3:509-536.
[18] Steiner, Jurg 1981. "The Consociational Theory and Beyond" *Comparative Politics*, 13(3):339-354.
[19] Lustick, Ian 1979. "Stability in Deeply Divided Societies: Consociationalism versus Control" *World Politics*, 31(3):325-344.

the stability of such divided societies as apartheid South Africa, Israel, and pre-Revolutionary Ethiopia, depended more on the effective exertion of superior power of the dominant groups than on the cooperative efforts of rival elites. Although it may be difficult to find a contemporary society which presents itself as a typical example of the control model, the analytical insights in the model is useful in analyzing consociationalism.

The application of consociationalism to inter-group conflicts such as the dispute in Northern Ireland exposes more weaknesses of the model. The Northern Irish experience highlights the shortcomings of consociationalism like the model's endogenous or internalist focus, which has resulted in its neglect of the role external actors in promoting consociational settlements.[20] They noted that because the consociational model springs from the experiences of small European democracies such as Netherlands, Austria, Belgium, and Switzerland that were threatened by bigger neighbours, Lijphart failed to consider the role of foreign intervention in facilitating consociational agreements. Attempts to correct the weaknesses in consociationalism have given rise to the emergence of the incentivist model of power-sharing.

The incentivist model is based on Donald Horowitz's contention that consociationalism failed to highlight. Horowitz claims that even if the elites commit themselves to a consociational arrangement at the outset in a competitive political environment, centrifugal forces emanating from their followers and political opponents may easily undermine the permanence of the agreement[21]. He therefore, argues that what is needed to strengthen consociationalism is to create incentives for sustainable elite cooperation and inter-group accommodation. This incentive,

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[20] McGarry, John and O'Leary, Brendan 2006. "Consociational Theory, Northern Ireland's Conflict, and its Agreement: What Consociationalists can Learn from Northern Ireland" *Government and Opposition*, 41(1): 43-63.
[21] Horowitz, Donald 1991. *A Democratic South Africa? Constitutional Engineering in a Divided Society*. Berkeley: University of California Press.

according to Horowitz, can spring from modifications in the electoral systems. Horowitz suggests that incentives for elite cooperation can be cultivated by refining the electoral system. Horowitz proposes the creation of ethnically homogenous electoral areas if groups are territorially concentrated. He argued that the creation of ethnically homogenous electoral areas has the advantage of fragmenting formerly monolithic ethnic groups and reducing the ability of such groups to make consistent divisive claims at the national level. In this case, issues that might otherwise have been contested at inter-group level may end up at the intra-group level; thus, relieving politics at the national level of frequent inter-group tensions. But where groups are intermixed, Horowitz advocates the creation of ethnically heterogeneous electoral areas. He claims that an ethnically heterogeneous electoral area encourages elites from different ethnic backgrounds to intermingle at the state level, creating opportunities for the development of inter-ethnic elite relations that can ease ethnic hostilities at the national level. Horowitz hypothesizes that heterogeneous electoral areas afford groups that are minority the opportunity to become majority in one or more states, thereby compensating for their marginal influence.[22]

Horowitz suggests that the more electoral areas there are, the less the tendency of ethnic and sub-ethnic groups to be concerned with parochial alignments and issues, and the more their inability to collude across electoral lines to make coherent and divisive claims at the national level. In other words, proliferation of electoral areas introduces more complex issue agenda on which area, rather than ethnic groups, may disagree because the interest of the electoral areas, even the ones predominantly populated by a particular ethnic group, may differ from each other. Proliferation of electoral areas makes the emergence of ethnic hegemony more difficult.

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[22] Horowitz, Donald 1991. *A Democratic South Africa? Constitutional Engineering in a Divided Society*. Berkeley: University of California Press.

Horowitz points out first the tendency of the strategy of proliferation of electoral areas to inspire unending demands for new electoral areas; a possibility to which Horowitz did not offer any concrete remedy. The second issue relates to how to deal with multiple minority demands that may arise due to the creation of many electoral areas. Proliferation of electoral areas tends to produce new or activate dormant minorities who did not have the capacity to articulate their demands in the former electoral areas. The emergence of these new minority groups may compound the woes of societies that are unable to deal with the existing minority demands. This situation places on the multiethnic electoral regions the burden of coping with the claims of the bigger minorities and the fresh claims activated by the creation of new electoral areas.

Horowitz argues that the electoral system can create incentives for elite cooperation. He noted that aspects of the electoral system such as the delimitation of constituencies, electoral principles like proportional representation, the number of members per constituency, and the structure of the ballot, all have a potential impact on elite alignments and electoral appeals in plural societies[23]. The key ingredient of the electoral system which serves as a powerful lever of consociationalism and accommodation is what Horowitz called vote pooling. Vote pooling refers to an exchange of the votes of their respective supporters by politicians who have been conditioned by the electoral system to be marginally depend on votes by others for victory[24].

To secure pooled votes, politicians must behave moderately on issues that generate intergroup disagreement. Horowitz identified three elements that are needed to induce inter-group vote pooling. The first element is a multi-party system, the second is the creation of ethnically

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[23] Horowitz, Donald 1991. *A Democratic South Africa? Constitutional Engineering in a Divided Society*. Berkeley: University of California Press.
[24]Horowitz, Donald 2002. "Constitutional Design: Proposals Versus Processes" in A. Reynolds (ed) *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy*. Oxford: Oxford University Press.

heterogeneous constituency; while the third element is the provision of electoral incentives that would make vote pooling politically profitable to politicians. Horowitz also highlighted three ways through which electoral incentives can be created. The first is through the enactment of distribution requirements for electoral victory, beyond the plurality or majority requirement - distribution requirements can also be imposed on politicians through the rules guiding party formation. The second way of creating electoral incentives is through the adoption of preferential voting, which requires that where there are three candidates in an election, each voter must specify his second preference; where there are more than three candidates, his second and third preferences. The third approach is through the adoption of a system where political offices are reserved for specific groups.

The consociational and the incentivist models are different in three major ways. Firstly, the consociational model suggests post-election elite coalitions while incentivist model seeks pre-election elite coalition through vote pooling. Secondly, while the consociational model focus primarily on elite level politics, the incentivist model emphasizes both elite and mass level politics. Thirdly, the consociational model supports parliamentarism because it offers a collegial cabinet in which various segments can easily be represented[25], while the incentivist model favors presidentialism.[26] The implication of this arrangement is that in the absence of an initial majority, all but the top two candidates are eliminated. The alternative preference voter whose first or second choices are not among the top two contenders but whose second or third choices are among the top are reallocated to them to compute a majority[27]. The incentivist model favors

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[25]Lijphart, Arend 1991. "Power-Sharing Approach", in J.V. Montville (ed) *Conflict and Peacemaking in Multiethnic Societies*. New York: Lexington Books.

[26] Horowitz, Donald 1991. *A Democratic South Africa? Constitutional Engineering in a Divided Society*. Berkeley: University of California Press.

[27] Horowitz, Donald 1985. *Ethnic Groups in Conflict*. Berkeley: University of California Press.

presidentialism for two reasons. Firstly, presidentialism makes it impossible for one group to capture the state permanently by mere capturing a majority in the parliament, because presidentialism makes access to government more complex. A group excluded from power in the parliament can still gain access to the government through the president. Secondly, the use of geographic distribution plus plurality rule as the basis for victory in presidential elections can create a system where the elected president can become a conspicuously pan-national figure, because the vote that earned him victory were pooled from different parts of the country. Vote pooling makes the president more than a representative of his own group, and this element can motivate politicians wishing to be president to cultivate relationship with politicians from other groups and parties. But, it can also lead to the opposite outcome where the nationally elected president may tend to favor his own region or party at the expense of the regions.

The tri-polar model considers the multidimensional nature of group interests and includes other spheres of power-sharing that may have equal or greater significance than the political sphere[28]. Although the consociational and incentivist models acknowledge different spheres of power-sharing, they focused primarily on the sharing of executive power. The diversity of group interests points to the need to broadly conceptualize power-sharing. For instance it is likely that groups with history of being economically marginalized would be more interested in exerting greater control over the national revenue than in occupying public offices. The initial attempt to extend the scope of power-sharing to multiple dimensions was made by Caroline Hartzell and Matthew Hoddie in their study of post-civil war settlements by developing a four-part model which divided power along political, territorial, economic, and military dimensions[29].

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[28] Hartzell, Caroline and Hoddie, Matthew 2003. "Institutionalizing Peace: Power-sharing and Post-civil War Conflict Management" *American Journal of Political Science*, 47(2): 318-332.
[29] *Ibid*

The tri-polar model categorizes power-sharing arrangements into three major dimensions - political, territorial, or economic. The territorial dimension of power-sharing is made up of arrangements that define the territorial structure of the country and specifies the process of devolution of powers. The fiscal dimension of power-sharing constitutes principles and practices of national revenue sharing. The political dimension of power-sharing includes principles and practices of distributing political and bureaucratic offices.

Not all models of power sharing were created equal and there is considerable conceptual variance between models. Hoddie and Hartzell distinguish between four levels of power-sharing, these are: central or political power-sharing, territorial such as federalism or decentralization, military and economic power-sharing such as the 2005 Comprehensive Peace Agreement that ended the civil war between North and South Sudan.[30] These authors conclude that while military and territorial power sharing impact positively on peace processes and their sustainability, political power sharing often does not lead to sustained peace.

Anna K. Jarstad suggests that in order to achieve conceptual clarity, it is necessary to distinguish between different modes of power sharing which are dependent on the context, legal basis and forms of arrangement.[31] The context of the agreement refers to the difference between power sharing implemented in a situation of civil war compared with those achieved in stable democracies. For example power sharing in New Zealand and Switzerland would not be comparable with that in Rwanda (1993) and the DRC (2002-2006). While in Switzerland and New Zealand, sharing power is associated with stability and democracy; in the latter cases it is

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[30] Hoddie, M. & Hartzell, C. 2005. "Power Sharing in Peace Settlements: Initiating the transition from civil war", in P. Roeder & D. Rothchild (eds.), *Sustainable Peace: Power and Democracy after Civil War* New York: Cornell University Press. P. 103

[31] Jarstad, A K. 2009. "the Prevalence of Power-Sharing: Exploring the Patterns of Post-Election Peace," *Africa Spectrum*, 44, 3, pp. 46-47

associated with instability and civil war.[32] Although the Kenyan and Zimbabwean were not examples of civil war, there was sufficient violence perpetrated to justify placing them in the latter group. The second distinction aims to differentiate between the different bases for power sharing, whether they are informal, part of electoral law or agreement. It can be a result of informal agreements or as part of electoral law such as the proportional representation of all parties in the South African transitional government of 1994. In the Kenyan and Zimbabwean, the power sharing formulation was as a result of agreements to end electoral violence or rather civil conflict. The final distinction is between power sharing as a temporary measure compared with one that is a permanent governance structure. In contexts of war and violence, power sharing agreements are usually a transitional mechanism as part of an agreement to undertake constitutional reform and hold new elections, such as Kenya and even Zimbabwe. It is important to distinguish between the different contexts of power sharing as it is misleading to compare permanent democratic power sharing such as that in Switzerland with temporary power sharing in contexts of political instability[33].

Theoretical framework

The origins of the concept Consociationalism or Power Sharing have been attributed to Dutch political scientist, Arend Lijphart who predict out the problems on establishing democracy in plural societies, particularly those with a history of ethnic or identity-based animosity. He argued that in divided societies, political choices are often made along ethnic lines and parties

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[32] Jarstad, A K. 2009. "the Prevalence of Power-Sharing: Exploring the Patterns of Post-Election Peace," *Africa Spectrum*, 44, 3, pp. 46-47

[33] Mehler, A. 2008. "Not Always in the People's Interest: Power-Sharing Arrangements in African Peace Agreements," *Brooks World Poverty Institute*, BWPI Working Paper 40, p. 6

representing ethnic minorities have little chance of ever establishing a majority in parliament.[34]

He argued that the result of this was not just an undemocratic system, but that the system would be likely to produce civil conflict. In retort, he proposed a system of consociational democracy which involved four vital elements which includes the creation of a broad-based grand coalition government including parties that are not needed to form a majority, the existence of a minority veto where threatened minorities can veto important decisions and reopen negotiations, proportional representation in all major political and administrative positions and in the distribution of public goods and finally group autonomy which entails the ability of groups in geographically limited entities to decide autonomously on issues not affecting the superior national interest.[35] The cases that Lijphart used to build his model were those developed in Belgium, Switzerland, Cyprus and Lebanon. Each of these country's experience is rather far removed from the political and social situations of modern African societies. Consociationalism, as it has come to be called, is seen as the starting point of power sharing, and the two terms are often used interchangeably. However, there have been few cases of true consociationalism in Africa. The case of the interim government in South Africa between 1994 and 1996 is an example of African consociationalism. Lijphart's model was considered during the scenario planning for the transition.[36] Burundi since 2005 stands as the other African case of Lijphart's original formula where the key elements of the model were written into the constitution.[37]

While consociationalism involves permanent constitutional making and a small number of essential elements, power sharing is more conceptually vague and experiences of power sharing

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[34] Lijphart, A. 1999. *Patterns of Democracy: Government Forms and Performances in Thirty-Six Countries*. New Haven: Yale University Press

[35] *Ibid*

[36] Mehler, A. 2008. "Not Always in the People's Interest: Power-Sharing Arrangements in African Peace Agreements," *Brooks World Poverty Institute*, BWPI Working Paper 40, p. 6

[37] Lemarchand, R. 2006. "Consociationalism and Power Sharing in Africa: Rwanda, Burundi, and the Democratic Republic of Congo," *African Affairs*, 106, 422, p. 3

are extremely diverse. Although power sharing evolved from the consociational model, it is more likely to involve ad-hoc concessions intended to achieve buy-in from opposition and militant groups in order to achieve peace and a semblance of political stability following intense civil conflict. As defined by Lemarchand, one is enshrined in a set of calibrated constitutional norms; the other is more in the nature of an improvised *bricolage*, aimed at co-opting the bad guys[38]. One underscores, among other characteristics, the importance of elite cooperation, proportionality, and minority veto; the other makes short shrift of all three.[39]

While consociationalism is the most formalized variant of power sharing, these two concepts should not be used synonymously. Power sharing arrangements, as defined by Lemarchand, are almost always a product of fire-engine diplomacy, a stop-gap measure to end or mitigate violent conflict and reach a least-worst arrangement for all parties concerned. As such, there are extreme variations in the form which power sharing may take in each case, it is largely determined by the interests of mediators and the power struggles between the elite representatives of confrontational groups.

Barbara Walter is one of the foremost proponents of Power Sharing Theory paradigm. She argues that the more power-sharing is built into a peace agreement, the less reliant peace will be on international enforcement.[40] Many international scholars shared this belief in the virtues of power sharing but the concept and its implementation were rarely questioned. In fact, it seems that in the context of agreements undertaken in circumstances of democratic deadlock, international and regional commitment is a markedly more important factor to determine the

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[38] Lemarchand, R. 2006. "Consociationalism and Power Sharing in Africa: Rwanda, Burundi, and the Democratic Republic of Congo," *African Affairs*, 106, 422, p. 3
[39] Ibid.
[40] Walter, B. 1997. "The Critical Barrier to Civil War", *International Organization*, 51, 3, pp. 335- 364

pace and depth of implementation of power sharing agreements and the sustainability of these accords.

Hypothesis

1. The anatomy of electoral conflicts has a relationship with the structure of ethnic conflicts.

2. Depending on the context, methods used to address electoral conflicts can be used to deal with ethnic conflicts.

3. Power-sharing is a viable method of dealing with electoral violence.

Methodology

This section will explore the methodology of the study in responding to the research objectives, the study sample and instruments for the study. This study employs the method of process tracing with an emphasis of the Kenyan power-sharing agreement of 2008. Process tracing is a method of intensive case study, involving a re-description of history, with detective consideration of causal factors and their effects, drawing possible different paths through which the factors cause their effects.[41] This method is typically useful at accounts of time order and at identifying new explanatory elements. The method of process tracing seeks to generate and analyze data on the causal mechanisms, processes, events, and the intervening variables that link putative causes to observed effects. The application of process tracing involves tracing the causal or process mechanism(s) at work in a given case. A mechanism is a set of propositions that could be the explanation for some social phenomenon or event, the explanation being in terms of

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[41] Bennett, Andrew and George, Alexander 2005. *Case Studies and Theory Development in the Social Sciences*. Cambridge, MA: MIT Press.

interactions between individuals and other individuals, or between individuals and some social aggregate.[42]

Using the process tracing method, I analyzed two premises that guide the explanation of the power-sharing in ending electoral conflicts. The premises include: (1) That there is a relationship between the structure of electoral violence and ethnic violence, and (2) that the consociation model of power-sharing employed to deal with ethnic conflicts can also be used to address electoral violence. I examined these premises within Kenya's historical, political, and socio-economic contexts and against the backdrop of events such as the Kenya's 2007 electoral violence and the ethnic clashes of the 1990s. The process tracing method was also useful in tracking significant junctures in Kenyan politics, periods when decisions leading to the violence were made. I focused on the historical developments in Kenya between the periods 1990 to 2010. I used the post-elections violence of the 2007 as a point of reference in setting the context for my analysis of power-sharing.

The main sources of data used for this research include public reports (such as memoirs, media reports, publications by groups and organizations like political parties), opinions (like editorials, speeches, pamphlets, letters to the editor, personal notes, paid announcements, and comments on internet sites), government documents and reports, and summaries and analyses of events (in books, monographs, journal articles, and encyclopedias). Specifically, the study draws on the rich and vast literature on ethnic relations and political developments in Kenya; focusing primarily on studies in relevant disciplines.[43] Substantial materials have also been drawn from

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[42] Hedstroem, Peter and Swedberg, Richard. 1998. *Social Mechanisms: An Analytical Approach to Social Theory.* Cambridge: Cambridge University Press.

[43] Akinyemi, Bolaji; Dele-Cole, Patrick and Ofonagoro, Walter 1979. *Readings on Federalism.* Lagos: Nigerian Institute of International Affairs.

the popular debates and commentaries on power-sharing published in the Kenyan press - The Nation, Standard and various internet sites like the BBC and wikileaks.

I obtained access to the above sources through a number of libraries and archives. During my research for this thesis, I visited several libraries and information centers in Kenya, including the libraries of University of Nairobi, The National Archives, and the Kenya National Library. Kenya Human Rights Commission resource Centre, the Centre for Law and Research Institute, the Independent Electoral and Boundary Commission in Nairobi, Institute for Education in Democracy, the Institute for Diplomacy and International studies of the University of Nairobi and the Life and Peace Institute. I also made use of a variety of other historical sources in Africa.

Data analysis is the process of bringing order, structure and meaning to the mass of information collected.[44] In this study, data analysis have involved three concurrent flows of activities namely; data reduction, data display, and conclusion drawing, all of which are accepted methods of qualitative data analysis.[45] I approached the task of data reduction through selecting, simplifying and focusing of the data collected from field research. Since most of the data for this study were drawn from secondary documents, data reduction was achieved through summarizing, paraphrasing, and subsuming of relevant data under a broader theme or narrative. Also as part of data reduction, I converted some qualitative data into quantitative data. The second step in the process of data analysis involves the construction data displays. Data displays are simply an organized assembly of information that facilitates conclusion drawing. Looking at such displays makes it easy for one to understand or further analyze a given event or phenomenon.

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[44] Mugenda, G. A., & Mugenda, O. (1999). *Research methods: Quantitative and qualitative approaches*. Nairobi, Kenya: ACTS.

[45] Miles, Matthew B. and Huberman, Michael A. 1984. "Drawing Valid Meaning from Qualitative Data: Toward a Shared Craft" *Educational Researcher*, 13: 20-30.

This way, findings that relate to the problem provide insights that are critical to decision-making. In this study, the construction of data displays entails setting up of various descriptive and explanatory statements. The last step in the process of data analysis is conclusion drawing. This involves drawing meaning from the reduced and displayed data – noting patterns, themes and possible configurations, subsuming particulars under the general, drawing conceptual and theoretical linkages, as well as building explanations based on logical chain of evidence. Narratives were used as data presentation technique[46]. Narratives have since been recognized as part of the methods in social science research[47] Narratives refer to the ways in which we construct disparate facts and weave them together cognitively in order to make sense of our reality.[48] The process of narrative construction was guided by the theoretical framework, which ensured that the narratives reflected the theoretical arguments.

The theoretical framework was the basis for determining the salient points. In line with Buthe's observation, narratives were useful in "presenting information about correlations at every step of the causal process, in contextualizing the steps in ways that make the entire process visible rather than leaving it fragmented into analytical stages".[49] Through narratives I was able to include detailed analysis of various events as well as to simplify the reality by determining the elements of the historical accounts that are salient and worthy of attention, and those that are insignificant and require omitting.

Considering ethical issues, I sought the required permission from relevant sources before compiling the data. This way, participation was voluntary and from an informed point of what is

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[46] Adebanwi (2001) for a fine application of this method to the study.

[47] Rhodes, Carl and Brown, Andrew D. 2005. "Narrative, Organizations and Research" *International Journal of Management Reviews*, 7(3): 167–188.

[48] Patterson, Molly and Monroe, Kristen R. 1998. "Narrative in Political Science" *Annual Review of Political Science*, 1: 315-331.

[49] Büthe, Tim 2002. "Taking Temporality Seriously: Modeling History and the Use of Narratives as Evidence" *The American Political Science Review*, 96(3): 481-493.

going on. I ensure that the information was handled and analyzed appropriately without any prejudices. Contributors were properly briefed and debriefed that the purpose of the study was purely academic.

Chapter Outline

This section provides the layout of the research study. It lays the sequence in which the chapters of the whole research project will run. It gives the chapter titles and some detail of the contents as the researcher visualizes. The chapter outline for this study will thus.

Chapter one introduces the topic of the research study in a bird's eye-view by first setting the broad context of the research study, the statement of the problem, objectives, literature review, theoretical framework, hypothesis and the methodology of the study. It provides the contours of the research.

Chapter two examines the anatomy of Kenya's electoral violence of 2007 on the platform of issues, actors and the dynamics of the mediation that brought about power-sharing arrangement as the outcome of the violence.

Chapter three assesses the link between electoral violence and ethnic clashes by tracing the History and structure of Kenya's ethnic clashes of the 1990s.

Chapter four discusses and explores the power-sharing model in addressing electoral conflicts in Africa. This chapter also analyses critically by tying the knots of the previous chapters in light of the objectives, hypotheses and theoretical framework already stated.

Chapter five It provides conclusions of the study and provides suggestions on areas for further study.

CHAPTER TWO: ANATOMY OF KENYA'S 2007 ELECTORAL VIOLENCE

This chapter will look at the anatomy of the electoral conflict in Kenya and examine why widespread violence erupted in the wake of Kibaki's presidential re-election. This chapter is structured in three parts by looking at the issues in the history of the electoral conflicts, examining the actors involved, and has outlined a variety of conflict dynamics in an attempt to understand the structure of the conflict.

Voters went to the polls on 27 December, 2007. In the weeks that had preceded the election, opinion polls suggested that the gap between the two main presidential candidates had narrowed significantly. While the atmosphere in many polling stations was tense, and though numerous bureaucratic delays occurred in several locations, voting itself went relatively smoothly and peacefully. While any hope of a swift declaration of the result was quickly shown to be optimistic, there seemed little initial reason for concern about the management of the election. The next day the International Republican Institute, one of the few foreign observer groups in the country, gave the election its provisional approval.[1] As attention switched from voting to counting, the mood across the country began to change. Over the following three days, great confusion was created by the process of tallying and reporting the results. All official results were meant to be announced at the press centre set up by the Electoral Commission of Kenya (ECK) at the Kenyatta International Conference Centre in central Nairobi. But delays in announcing results from the presidential election caused great frustration.

As the delay lengthened, so suspicion of government malfeasance grew. Supporters of the government and members of ethnic groups that were thought to be its supporters living in areas dominated by the opposition quickly came to fear that they would be the target of violent protests

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[1] International Republican Institute, '*Preliminary findings of IRI's international election observation missions*', Press release, December 2007.

against any rigging. In Busia, on the Ugandan border, on 28 and 29 December local opposition activists warned Kikuyu residents —that-they were to be evicted imminently.[2] Despite the delay, expectations of an Odinga victory were also growing. On the basis of the first batch of declared results, which came overwhelmingly from ODM strongholds, Odinga's supporters thought their man was on his way to State House. Crowds in Kisumu celebrated victory for Odinga. The main newspapers agreed, and the morning editions on 29 December effectively called the election for him. By the afternoon of the same day, the situation had changed. As Samuel Kivuitu, the chairman of the ECK, began to announce a series of results from Kibaki's heartlands, ODM leaders in attendance at the tallying centre tried to stop him. They claimed to have concrete evidence of rigging from the constituencies being announced. These constituencies, it later turned out, were those from which the European Union observers' mission reported irregularities.[3] After listening to representations from all parties, Kivuitu decided to postpone the announcement until the following day and instigate an overnight investigation of the results.

The first protests began shortly afterwards in Kisumu, Mombasa and Nairobi. Control was quickly regained by the police, but tension remained high across the country into the following morning, 30 December. One of Kericho's Kikuyu residents, Dr Njoroge, waited for the results: 'By the third day we were all very anxious and afraid.[4] In Nairobi, a security cordon was put in place around key government buildings and the building where the results were being announced. The media and observers waited there for much of the day for the final declaration, which everyone now expected would announce Kibaki as the winner. ODM members made one

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[2] Kwamschetsi Makokha and Rosemary Okello Orlale, *In the Shadow of death: My trauma, my experiences, voices of Kenyan women from post-election violence,* Nairobi, 2009, p. 9.

[3] European Union election Observer Mission, Kenya*: Final report general elections 27 December 2007*, Brussels, 2008.

[4] Kimani Njogu(ed.), *Healing the wound: Personal narratives about the 2007 post-election violence in Kenya*, Nairobi, 2009, p. 27.

last attempt to block announcement of the result before the building was cleared. Taken to a secure room with only the state broadcaster for company, Kivuitu finally announced the results in the late afternoon. Kibaki had, he reported, won the presidential election by more than 200,000 votes. He then hurried the short distance to State House to deliver the certificate declaring the result to the president. A swearing-in ceremony was hastily organized and, as the sun set, Kibaki began his second term in office.

It was with incredulity that Kenyans watched these events unfold live on television. An election that had been called for Odinga just a day before had now been won, so it was claimed, by Kibaki - and by a surprising margin. The president's supporters celebrated the unexpected victory, but elsewhere violence erupted almost immediately. In Kericho, 'within no time we now started seeing fire in the towns people shouting and screaming and we could see smoke all over the town. We soon heard gunshots and this continued into the night.'[5] In the hours that followed the results, some supporters of Odinga attacked individuals and groups they thought had supported Kibaki. Some of this was spontaneous: 'It was terrible and every person who was perceived to be from a particular tribe was kicked out of his house and the house set on fire,' recalled Salome Njeri. She and her family, Kikuyu residents of Busia, fled to the local police station, where they spent the next eight months.[6]

In the two months that followed the disputed election, at least 1,133 Kenyans were killed, thousands of women raped and property widely destroyed. The violence took three forms. The first - and, in terms of fatalities, statistically the least significant - constituted protests against the result itself. As the reports of domestic and foreign observers made clear, the elections were at

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[5] Kimani Njogu(ed.), *Healing the wound: Personal narratives about the 2007 post-election violence in Kenya*, Nairobi, 2009, p. 27.
[6] Makokha and Orlale, *In the Shadow of death*, p. 9.

best marked by significant irregularities, the extent of which made it impossible to declare a true winner; at worst they had been fixed. According to ODM's spokesman Salim Lone, 'The robbery was blatant.'[7] For his part, Kibaki was insistent that 'he won the election fairly'.[8] The truth was somewhere in between: rigging took place on both sides, the paper trail was retrospectively tampered with, and the margin of victory for either candidate was almost certainly tiny. As the US embassy's analysis put it: 'We do not think it will ever be possible to tell definitively who actually won the election.'[9] But it is important to note that confusion and obfuscation of the result was a deliberate policy of the PNU. The ECK had been packed with Kibaki's allies earlier in the year: nineteen of the institution's twenty-two members had been appointed by the president. Nine of the appointees were labelled by ECK Chairman Samuel Kivuitu ahead of the election as 'the riggers'.[10] Moreover, as the American ambassador reported, the tallying centre in Nairobi was the subject of a break-in on the night the election result was declared. 'We do not know what was taken or altered,' Ranneberger wrote, 'but since there was heavy police security around the ECK, we can only conclude that it was an inside job.'[11] Kibaki fiddled and Kenya burned.

Although the ODM won the most seats in the parliamentary elections, this was of little comfort to the supporters of Odinga. The ODM's leaders put a plan for civil disobedience into action, calling on Kenyans to protest against the result of the presidential vote. Looting and vandalism were reported in Nairobi, Mombasa and Kisumu. In some places this was particularly targeted at businesses and other property owned by Kikuyu, on account of that community's support for Kibaki and the PNU. The extent of these protests was, however, limited. A massive security

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[7] Roger Cohen, *'How Kofi Annan Rescued Kenya'*, New York review of Books, 14 August 2008.
[8] Ranneberger to state department, 29 January 2008; 08NAIROBI1312; Wikileaks cable viewer website, 2011.
[9] *Ibid*
[10] *Ibid*
[11] *Op cite*

operation was mounted to prevent the civil disobedience campaign gathering pace. Sites for demonstrations were blocked off and, with live television and radio broadcasts suspended; it became difficult for the ODM's leaders to communicate plans for mass action.

The second strand of the violence was the response to the protests. Through the first two weeks of January, the police and other security forces used disproportionate force to quell demonstrations against the election result. It became apparent almost immediately that live ammunition was being used against the protestors, as police officers brutally cracked down on any demonstration of support for the ODM in major urban areas. As one twenty-seven-year-old woman from the Manyatta informal settlement in Kisumu put it: 'The police were shooting indis-criminately. I saw them but there was no time to escape. I found myself in hospital.'[12] Another eyewitness, Joel Cheruiyot of Kapsoit, described how: 'I think that the government used excessive force even on innocent people who were going about their own business . . . In fact the police used to force people to close their shops by using live bullets or by beating people. There are ladies who were raped but are silent.'[13] A later investigation into the violence found that 405 people had been killed by the police. 'Among the victims were some who were ostensibly going about their lawful business when they were hit by bullets and many more whose wounds confirmed that they had been shot from behind,' the investigation concluded.[14] The actions of the police can be easily explained with reference to the long history of political control over the security forces, their habitual use of extreme violence in response to challenges such as outlawed sects, and a tradition of disregard for human rights and the law.

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[12] Makokha and Orlale, *In the Shadow of death*, P. 9.
[13] Njogu, *Healing the wound*, P. 52.
[14] Commission of Inquiry into the Post-election Violence, *Commission of Inquiry into the post-election Violence Report*, Nairobi, 2008, p. 417.

The third strand of violence proved the most destructive. Almost immediately after the declaration of Kibaki's victory, planned attacks were mounted on homes and communities. The fact of the disputed election was used to reignite a much older conflict over land, power and wealth. 'The fire this time', Billy Kahora later called it in his editorial in the influential *Kwani?* Literary journal.[15] In areas of the Rift Valley and Western Provinces affected by the clashes, of the 1990s, armed militia attempted once again to force out ethnic groups considered to be outsiders.

Michael Mwangi, a retired headmaster living in North Kinangop, had lived through the ethnic clashes there in April 1992. As elsewhere, the violence following the 2007 election began almost immediately after the result was announced. However, it gathered pace and intensity in the days that followed. 'Burning of houses started on the night of 31 December 2007 and 1 January 2008,' recalled Mwangi. Through early January, farms close to his home were attacked by Kalenjin militia, and the police seemed powerless. Eventually, the army was deployed in the area, but many Kikuyu residents were told to take refuge at the local police station. As they left their homes, Kalenjin youths burned and looted their property. 'Homes were burning while the police just watched,' Mwangi claimed. Like so many others, he took in people fleeing the violence. But with up to 500 people camping out in his compound by the end of January, his home became a target for the local Kalenjin militia. With his farm surrounded by militia members one night and his house on fire, Mwangi was saved only by the last-minute arrival of police officers.[16]

Eldoret and its surrounding countryside was the epicentre of the post-election violence. The targets of the violence were the non-Kalenjin population of the area - mostly Kikuyu. Within just

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[15] Billy Kahora, 'The fire next time or a half-made place: Between Tetra Paks and Plastic bags', *Kwani?,* 5(2) (2008), pp. 8-12
[16] Njogu, *Healing the wound*, pp. 67-8

five days of the announcement of the election result, nearly ninety people had been killed in the area. Around 50,000 people had been forced from their homes in the same short period. However, with roads out of the area blocked with burnt-out cars and rocks, and with Kalenjin militias marshalling unofficial checkpoints, those forced from their homes sought refuge in communal buildings such as churches and schools, as well as in the compounds of police stations and administrative posts. Some 400 people sought protection at the Kenya Assemblies of God Church in the village of Kiambaa, less than fifteen Kilometres from Eldoret. The Kikuyu residents of the area had, in some cases, been living at Kiambaa for forty years. 'I was born and brought up here,' one later told reporters. 'My parents settled here after buying land and I do not understand why political issues have caused a rift between us and our brothers from other communities.' At 10 a.m. on New Year's Day, the women at the church were making lunch. 'We were preparing *githeri* [maize and beans] for the more than 400 people who had sought refuge in the church when a group of youths brandishing weapons charged at us', recalled Margaret Wanjiku. The attackers set light to the church and, according to Wanjiku, in a matter of minutes the church building was a burnt-out shell.[17] At least thirty-five people were killed in the attack, including infants and the elderly. William Ruto later attempted to clear Kalenjin youths of involvement. In conversations with US officials, he claimed 'the cause of the incident was an accidental kitchen fire during preparations for lunch'.[18]

The violence at Kiambaa and elsewhere was, in part, the result of a form of identity politics that we have encountered as a nation. Kikuyu were commonly depicted as outsiders, without legitimate claim to the land in the Rift Valley that they occupied. Milka Kiarie, a resident of Molo who had been a victim of the clashes in 1992 and 1997, was forced from her home on 26

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[17] Barnabas Bii and Peter Ngetich, 'Raid on displaced families that shocked the world', *The Nation*, 6 January 2008.
[18] *Ibid*

February. She later described how Kalenjin militia members 'came and told us that we had to leave: since it was their land which they were given at independence and the Rift Valley belonged to them'.[19] But such a view ignored the multiethnic, mobile history of modern Kenya. 'I have nowhere to go,' said one survivor of the Kiambaa church massacre. 'I am ready to-go back to what used to be my home depending on how things shape up.'[20] Such sentiments were courageous, but also rooted in fact. Kikuyu belong to the Rift Valley just as much as Kalenjin, Maasai and Samburu.

In 2008, when asked about the origins of the post-election violence, the civil society leader Gladwell Otieno said: 'It's about resources, it's about land, it's about tribe, it's about so many issues that successive governments have not addressed.'[21] That was true, but in the heat of the moment, of all these different factors it was ethnicity that was seized upon by many Kenyans in an attempt to understand events. Politicians came under pressure from their constituents to provide support and protection for ethnic kins men across the country. While the police and other security forces were used to crush protests against the election result, the same officers were far less able to protect families in areas affected by the communal violence. To Michael Mwangi, 'It looked like the government had been overthrown. Three-quarters of the policemen were on the ODM side.'[22] Reuben Cheruiyot, a bookseller in Londiani, lost his business in the violence, even though 'My shop was just 50 metres from the police station.'[23] When her home in Molo was attacked, Milka Kiarie went to the local police station. Some of the police officers 'tried to help

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[19] Njogu, *Healing the wound*, p. 147.
[20] Barnabas Bii and peter Ngetich, 'Raid on displaced families that shocked the world', *The Nation*, 6 January 2008.
[21] Parselo Kantai and Patrick Smith, Kenya: 'No country for young men', *Africa Report*, 11 June/July 2008, p. 41.
[22] Njogu, *Healing the wound*, p. 68.
[23] *Ibid*, p. 56.

but some of them were not assisting because they were favouring their side as most of them were Nandis'.[24] In order to fight back, Kibaki's inner circle turned to Mungiki.

Mungiki members, who had been the target of state repression just months before, now became the PNU's soldiers of fortune. Credible rumours of Mungiki members being used to crush protests in Nairobi's poorest neighbourhoods were circulated from the very first days of the crisis. However, more substantial evidence exists of the state's complicity in Mungiki's violence in the Rift Valley. According to the BBC's Karen Allen, 'meetings were hosted at the official residence of the president between the banned Mungiki militia and senior government officials'. Although the government denied these reports, Allen's sources told her that Mungiki members 'were given a duty to defend the Kikuyu in Rift Valley and we know they were there in numbers'.[25] Other journalists found similar evidence of state involvement in Mungiki's actions. 'Kikuyu politicians and businessmen hired group members for reprisal killings in Nakuru and Naivasha at the height of the post-election violence', *Africa Report* claimed in 2008. 'For Kes.300 for each person in a gang of 50, politicians were able to hire Mungiki to wreak revenge on the Kalenjin youth militias that had driven tens of thousands of Kikuyu families from their farms in the Rift Valley.'[26] Mungiki's targets were not the rival Kalenjin militias involved in the violence against Kikuyu communities in the western Rift Valley, but rather Kalenjin and Luo residents in the towns of Nakuru and Naivasha.

Mungiki's assault in Naivasha began on 27 January. Over the preceding days, Luo and Kalenjin residents of the town had received warning messages of imminent attacks. A police officer told the BBC how he and his fellow officers had been given orders to allow a convoy of minibuses

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[24] Njogu, *Healing the wound*,, p. 147,
[25] 'State "Sanctioned" Kenyan clashes' *BBC News*, 5 March 2008, available at: http://news.bbc.co.uk/1/hi/worl/qfrica/7279149.stm
[26] Parselelo Kantai and Patrick Smith, 'Kenya: No country for young men', *Africa Report*, 11, June/July 2008, p. 43.

through police checkpoints along the main roads connecting Nairobi to the two Rift Valley towns. 'We were ordered not to stop the vehicles to allow them to go,' the policeman said. The minibuses were 'packed with men' and 'I could see they were armed'.[27] News of the arrival of these strangers on the evening of 26 January was widely circulated around Naivasha. The following day, Mungiki's attacks began. 'I remember the merciless killing of innocent Kenyans by armed attackers,' recalled Jane Achieng', a forty-nine-year-old widow. 'What I saw was too inhuman.' Achieng owned sixteen properties that were rented out to tenants working in the town and the surrounding flower farms; all her houses were destroyed on 27 January. Achieng fled her burning home and eventually made her way to Busia.[28] Other Kalenjin and Luo sought refuge in the grounds of Naivasha's prison.

In total, more than 500,000 Kenyans were forced from their homes in the first two months of 2008. Many took refuge with friends, relatives and, in some cases, complete strangers. Although not as newsworthy, astounding generosity and instinctive humanitarianism was as much a feature of the crisis as was the violence. Some people took extraordinary risks. Mama Kiplagat, a 29-year-old woman living in Burnt Forest, took in her Kikuyu neighbours - a widow and her three children. 'If Kalenjin had realized I had helped a Kikuyu, they would have even killed me,' she later remarked. 'It was very risky and I was in danger because of suspicion and even feared that my children would betray me if they knew about it.'[29] Hundreds of thousands of Kenyans nevertheless had no choice but to head to the camps set up for the victims of the violence. Kenneth Kamau was one of those forced to seek refuge in the camp established at the main stadium in Naivasha. A Kikuyu, he had fled from his home in Narok after being attacked by

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[27] 'State "Sanctioned" Kenyan clashes' *BBC News*, 5 March 2008.
[28] Makokha and Orlale, *In the Shadow of Death*, p. 15.
[29] Njogu, *Healing the wound*, p. 167.

Maasai youths on 12 January. Suffering from serious wounds, Kamau was first taken to hospital and then to Naivasha camp. 'At the camp we have a lot of problems', he commented. 'When it rains the camp gets flooded. Some of us have the abilities and are unable to take shelter and it gets really cold. Since the Red Cross left, it takes time before we get food. At times we have to wait or a month or two to get food.'[30] Kamau and the other tens of thousands of people displaced by the violence were quickly forgotten by the government. Eighteen months after the violence erupted, nearly half of the displaced people were still awaiting resettlement. Even now, several years after the violence, camps dot the landscape of the Rift Valley and homes remain abandoned. The government's treatment of the displaced has been scandalous. Camps have been forced to close and the payments promised to help relocate or rebuild old homes have been delayed - and have sometimes never materialized at all.

By late January 2008, the situation seemed bleak. 'We are operating in crisis mode,' one police insider told US diplomats.[31] The police force was stretched thinly and its officers were not, as we have seen above, necessarily determined to do much to end the violence. Soldiers were; deployed in a few areas, but their loyalty to the government was untested. However, a combination of domestic and international pressure brought an end to the conflict more quickly than many had dared hope. International efforts to broker a solution had begun in the very first days of the crisis. Travel bans were imposed on individuals suspected of instigating the violence, for example. In early February, the businessman Joshua Kulei, the MPs Henry Kosgey, Wlliam Ole Ntimama and Zakayo Cheruiyot, and the former MP Musa Cherutich Sirma were banned from travelling to the US because of their alleged incitement, organisation or funding of militia violence against Kikuyu in the Rift Valley. At the same time, the MPs John Mututho and —

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[30] Njogu, *Healing the wound*, p. 143.
[31] Ranneberger to state department, 29 January 2008; 08NAIROBI131; Wikileaks cable viewer website, 2011.

Kabando wa Kabando, the former MPs Njenga Karume and James Kimathi, and a businessman Richard Ngatia were banned because of allegations of various forms of involvement in Kikuyu militia attacks.

ECK commissioners Kihara Muttu and Jack Tumwa were both, furthermore, banned from travel to the US for allegedly 'accepting bribes to fix the election results tally at ECK headquarters'.[32] Alongside these bureaucratic efforts, a series of foreign dignitaries attempted to broker peace. Hapless efforts by Jendayi Frazer, then the US assistant secretary of state for African affairs, and even Cyril Ramaphosa a S. African all came to naught. John Kufuor, the president of Ghana, visited the country to no great effect, but did persuade his compatriot Kofi Annan to lead an African diplomatic mission. Together with Graca Machel, the wife of Nelson Mandela, and the former president of Tanzania, Benjamin Mkapa, Annan arrived in Nairobi on 22 January over the next five weeks, he chaired regular meetings of delegations from both sides in the dispute.

From early on, the proposed solution from the mediators was a power-sharing government. But with both delegations of negotiators made up of hardliners - most notably Ruto from the ODM and Martha Kama from the PNU - reaching agreement proved difficult, The PNU's negotiators blamed the ODM for the violence, accusing the opposition of trying to 'blackmail' its way into government.[33] Finally, Annan decided to meet face to face with Odinga and Kibaki. I couldn't let them hide behind the mediators any longer,' Annan told one journalist.[34] Supported by Mkapa and the current Tanzanian president Jakaya Kikwete, Annan met the two main leaders on 28 February After five hours, a deal was struck. A coalition government would be formed and Odinga would be appointed to the new post of prime minister. Ministerial posts were to be

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[32] Rannebeger to state Department, 5 February 2008; 08NAIROBI378; Ranneberger to state department, 8 February 2009; 08NAIROBI420; Wikileaks cable viewer website, 2011.
[33] *Ibid* 29 January 2008: 08NAIROBI1312;
[34] Roger Cohen, '*How Kofi Annan rescued Kenya*', New York Review of Books, 14 August 2008.

divided up equally between the two parties. 'Better half the loaf than no bread,' remarked Odinga.[35] The violence ceased quickly.

The power-sharing government was finally sworn in six weeks later. Besides Odinga's promotion and the expansion of the cabinet to accommodate its new ODM members, the power-sharing agreement included a package of reforms intended to prevent any future re-currence of violence. Two independent inquiries were also commissioned the first, chaired by the retired South African judge Johann Kriegler, was to examine the conduct of the election itself. The second, headed by the Kenyan Judge Philip Waki, was given the remit of investigating the causes of the violence. A committee of international and local experts was appointed to draft the new constitution, and a truth commission was set up to address long-standing historical grievances, such as the violence of the 1990s. Finally, agreement was reached to investigate, try and prosecute the perpetrators of the violence that followed the 2007 election.

Politics after the violence ceased were dominated by this ambitious reform programme, but there was little in the performance of the coalition government to inspire Kenyans. 'Half-hearted and vague', according to Parselelo Kantai, the power-sharing deal meant only the re-orientation of power at the centre among rival political elites, but elites nonetheless'.[36] The agreement was blighted by two debilitating contradictions. First, those responsible for the violence were entrusted with resolving it. There was little reason to believe that they had the capacity to build peace or enact the reforms necessary to prevent any future recurrence. Secondly, the merits of designing and implementing measures intended to reduce the chances of a future recurrence of violence in the long-term had to be weighed against the short-term political expedient of keeping

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[35] Roger Cohen, '*How Kofi Annan rescued Kenya'*, New York Review of Books, 14 August 2008.
[36] Parselelo Kantai, 'African "deal democracy" on trial', *Africa report*, 16, April/May 2009, p. 31.

the coalition together, thus preventing an immediate return to conflict. These short-term considerations trumped the reform agenda at every stage.

Key institutions showed no sign of having learned any lessons from the violence either. The security forces and their political masters immediately demonstrated a willingness to use disproportionate violence without due regard for human rights in order to crush any security threat. Once the post-election violence was over, the police, GSU and army turned their attention to Mount Elgon. There a distinct low-intensity conflict had been rumbling on for the previous two years. Historic land grievances drove local politics, and politicians sought to exploit these for personal political gain. In 2006, disgruntled Sabaot, who felt short-changed after successive attempts to resettle the population of the area, formed the Sabaot Land Defence Force (SLDF). This militia soon allegedly became linked to the aspiring politician Fred Kapondi. Kapondi contested the 2007 election and, Human Rights Watch claims, used the SLDF during his campaign.[37] In two years of bloodshed, until April 2008, up to 200,000 people had been, displaced from their homes by the SLDF, more than 600 people had been killed and many more beaten, abducted and sexually assaulted. Once the election and the violence elsewhere were over, the security forces, including the army, were charged with eradicating the SLDF. This they did with gusto between April and June 2008. Up to 4,000 suspected militia members were detained during the operation, and many of those were allegedly tortured. Others were even less lucky: around 220 people were allegedly killed by the armed forces.[38] There was little willingness on the part of the government to consider its conduct of the election either. The PNU, the US ambassador remarked, consistently refused

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[37] HRW, 'all the Men Have gone': *War crimes in Kenya's Mt. Elgon conflict*, New York, 2008, pp. 16-17.
[38] *Ibid.*

to truly own up to the fact that the flawed election results were the impetus to the crisis. They seem almost oblivious to the vote tallying problems, treating it as a minor detail that can be brushed aside and dealt with through legal means.[39]

Even the final report of the Independent Review of Election Commission led by Kriegler was, according to one human rights consortium, 'a half-baked job that attempts to cover up offences committed by people who deserve no such protection'.[40] Rather than interrogating the political culture of elections, Kriegler's commission focused entirely on bureaucratic procedures. The final report refused to attribute blame to any party, with the exception of the ECK, and so the review sustained the Government of National Unity through its most contentious dispute. Few members of the government had much to gain from a close analysis of how the election had been managed. While Kibaki and his supporters had the most to fear from a forensic analysis of events at the tallying centre, a glance at the large turnouts in many constituencies won by ODM leaders suggested that irregularities could be found there, too. The only faction that pushed for greater discussion of the conduct of the election was that made up of those alleged to have been the orchestrators of the ethnic violence in the Rift Valley. Presenting the violence there as a spontaneous response to the theft of the election was a way of rebutting the accusations of their involvement in the planning of the bloodshed.

In contrast to the inquiry into the management of the election, the independent committee chaired by Philip Waki that investigated the violence produced a robust report that apportioned blame without fear or favour. Ruto complained that the report was 'rubbish' and 'unfairly incriminating'.[41] Impartial observers disagreed. 'This is a report whose authors intend it to have real meaning - to end the impunity that it so clearly highlights with respect to the politically

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[39] Rannerberger to State Department. 29 January 2008; 08NAIROBI312; Wikileaks cable viewer website, 2011
[40] Kenyans for peace Truth and Justice , 'Unfinished business from Krieglers's IREC', *Wajibu*, 24(1) (2009), p. 7.
[41] Ranneberger to State department, 3 June 2009; 09NAIROBI1083; Wikileaks cable viewer webisite, 2011.

instigated clashes of the 1990s and political violence in general,' wrote Muthoni Wanyeki of the KHRC after the report was published.[42] However, its extensive efforts to contextualise the violence within a longer history of police brutality, the use of militias by politicians and profound inequalities within Kenyan society were quickly lost in a furore over the names of those whom Waki's report suspected of masterminding the violence. Those names, written on a list, placed in a sealed envelope and handed to Kofi Annan for safekeeping, were the subject of much subsequent speculation.

The process of constitutional reform was another example of the way in which the presumed political need to keep the flawed coalition intact undermined the long-term objectives of peace and stability. All agreed that constitutional reform was unfinished business: the retention of the existing constitution was intolerable to almost every Kenyan. But there was little agreement on what the new constitution should look like. Two key issues continued to divide both the government and the wider population. Devolution of power to local authorities was seen by many in the ODM as essential to solving the problem of an over-centralization of power. To the PNU's leaders and supporters, devolution was a constitutional cover for ethnic cleansing and provided succor only to the ethnic warlords. The role of the president was similarly divisive. Many in the PNU supported retention of the powerful presidency. The ODM's leaders wanted to see the powers of the presidency restrained either by the continuation of Odinga's temporary post of prime minister or by bolstering other institutions in government, thus enabling them to act as checks and balances on the executive.

 A committee made up of constitutional experts from Kenya and over-" seas was charged with producing a draft document that worked through these seemingly intractable disputes. The

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[42] Muthoni Wanyeki, Hats off to Waki and His team', *The East African*, 19 October 2008.

committee handed over its suggested draft to the politicians in November 2009. In the months until a final version of the draft was tabled ahead of an August 2010 referendum, political leaders negotiated with one another about the contents of the document. A final version was published three months before the referendum. The draft constitution promised a greater separation of powers between the executive, the legislature and the judiciary. A second chamber was to be added to parliament and legislators were to be given greater powers of oversight over presidential appointments. However, a strong presidency was retained, and there was to be only limited devolution of power to new county councils. The much-anticipated decentralization of power would not happen.

Despite the fact that the draft constitution failed to measure up to the expectations of constitutional reform that had been expressed so fervently over the previous two decades, many of those who had been in the vanguard of the push for reform supported it at the referendum. To civil society leaders, MPs who had long been linked to the reformist position and other observers, it seemed likely that 2010 represented the last opportunity for meaningful reform. Pro-reform campaigners set their reservations to one side and campaigned enthusiastically for the 'Yes' vote. 'This constitution will help us fight poverty, ignorance and disease and dictatorship,' Odinga told crowds at a rally in Nairobi in May 2010.[43] Such promises could never be kept by any constitution, never mind the wordy and complex document presented to Kenyans.

Rather than tackling the obvious limitations within the draft constitution, the 'No' campaign was built around narrow political self-interest. Ruto believed that campaigning against Odinga represented his best opportunity for a tilt at the presidency in 2012. The two former allies had fallen out, and Ruto had entered an informal alliance with the government with the vice

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[43] Lucas Barasa, 'Vote for constitution, urge leaders', *The Nation* , 15 May 2010.

president, Musyoka, and the deputy prime minister, Kenyatta. However, with popular support firmly behind the yes' campaign, neither Musyoka nor Kenyatta was willing to oppose the draft constitution. They too, joined Odinga and President Kibaki in half-hearted campaigning for acceptance of the draft document. Ruto and his fellow Kalenjin MPs were left isolated in the 'No' campaign. They predictably picked on land as an issue to galvanise support, arguing - without any basis in fact - that the proposed constitution Jeopardised Kalenjin claims to the Rift Valley. 'We will not accept to suffer while people sit on our land,' Ruto's ally and Mount Elgon MP Fred Kapondi told the crowd at the launch of the 'No' campaign.[44]

Although politically exposed, Ruto was nevertheless able to find partners for his 'No' campaign. Jettisoning the churches' longstanding support for constitutional reform, various Christian leaders opposed the draft. Their grievances hinged on the continued provision for Islamic family courts which, the church leaders claimed, unfairly privileged Islam over Christianity and on the new constitution's tolerance of abortion in very rare cases. The proposed constitution 'violates the rights of some religious groups' and was 'offensive to the Christian community', claimed the NCCK general secretary, Canon Peter Karanja.[45] Voters offered a stern rebuke to Ruto and the clergy. Over two-thirds voted to accept the draft constitution. Odinga had seized the initiative and now sought to make hay. Having already been demoted to the post of higher education minister, in October Ruto was suspended from the cabinet. But worse was to follow.

By late 2010, no individual had yet stood trial for their part in the bloodshed three years before. Both the perpetrators and the organizers had escaped justice. Efforts to establish a tribunal to try the main organizers of the violence failed to get through parliament, not least because many MPs feared prosecution. The existing court structure had, on several occasions in the past, proved

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[44] Lucas Barasa, 'No team confident of referendum win', The *Nation* , 15 May 2010.
[45] Ouma Wanzala, 'Draft "violates rights of some religious groups" ', *The Nation*, 15 April 2010.

itself incapable of coping with such incidents. For once, however, Kenyan politicians were not in complete control of their own affairs. From the very beginning of the violence, human rights groups appealed to the International Criminal Court (ICC) to investigate alleged crimes against humanity committed by the state security forces and some of the ODM's leaders. The ICC's prosecutor, Luis Moreno-Ocampo, was moreover keen to take up the Kenyan case. In urgent need of a successful prosecution to prove the ICC's worth, Moreno-Ocampo opened an investigation.

Building on the findings of the Waki commission and reports into the violence compiled by human rights groups, Moreno-Ocamp delivered his conclusions in December 2010. He announced that he would request the ICC to issue summonses to six individuals in two distinct cases. In the first, Moreno-Ocampo accused William Ruto; Henry Kosgey, the minister for industrialization and the ODM chairman; and Joshua Sang, a broadcaster and executive at the Kalenjin-language radio station Kass FM, of crimes against humanity. In the second case, Francis Muthaura, the powerful head of the civil service; Uhuru Kenyatta, the deputy prime minister and minister of finance; and Mohammed Hussein Ali, the former police chief, were accused of the same charges. The prosecutor also made it clear that there were many more than six organizers of the violence, and that he expected the Kenyan authorities to prosecute perpetrators within the local court system. According to Moreno-Ocampo:

> These were not just crimes against innocent Kenyans. They were crimes against humanity as a whole. By breaking the cycle of impunity for massive crimes, victims and their families can have justice. And Kenyans can pave the way to peaceful elections in 2012.[46]

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[46] 'Kenya's post-election violence: ICC prosecutor presents case against six individuals for crimes against humanity', ICC press release, 15 December 2010, available at: http://www.icc-cpi.int/NR/exeres/BA2041D8-3F30-4531-8850-431B5B2F4416.htm, accessed 2010.

It is, however, worth keeping in mind that most significant political activities and changes in leadership throughout Kenya's history as an independent state have been followed, and to some extent formed, by violence, usually framed along ethnic lines. Yet, the most recent post-election violence, because of its relationship to the contested election results and because of its speed and scale, seemingly came as a surprise and shock for many Kenyans and the outside world. The violence had erupted even before Kibaki was declared winner of the elections, but increased in scale after the announcement. It was in the Rift Valley – in particular around Eldoret – that violence first erupted, seemingly taking the form of ethnic-based clashes between Odinga's supporters, especially from the Kalenjin ethnic group, and supporters of Kibaki, mostly from the Kikuyu ethnic group. The level of the state agencies' responsibility for the occurrence of the election violence remains a disputed subject. Human Rights Watch interviews with police officers suggest that an unofficial 'shoot-to-kill' policy was applied, apparently resulting in unarmed civilians being shot dead if assumed to be rioters.

In order to establish a framework for understanding how electoral violence in Kenya may be countered it is useful first to link it up with ethnic conflicts of the 1990s. The following chapter aims at retracing the history and underlying factors that are determinant for an ethnic tension that, at times, sanctions the use of violence to reach political objectives.

CHAPTER THREE: HISTORY OF KENYA'S 1990s ETHNIC CLASHES

This chapter will look at the History of ethnic violence that has been experienced in Kenya by singling out the ethnic clashes of the 1990s. It will further explain the issues, the actors and the dynamics that revolved around these clashes in relation to the election. Ethnic violence of the sort witnesses in the Rift Valley, Western and Nyanza provinces is often the result of an alliance between national elites and local people. While it may be easy to blame Moi and his ministers for the violence of the 1990s, that does not explain why many ordinary Kenyans participated in or tacitly supported the clashes. In trying to explain this violence, to focus solely on the impending election and the arena of high politics risks depicting those who participated in it as puppets in a macabre piece of political theatre. Viewed from the bottom up, the clashes were a way of resolving grievances over land. Those grievances were made up of at least two historic layers. The deepest stratum was the memory of colonial dispossession. The settlement of the European farmers and the annexation of land from Africans in the early part of the twentieth century remained a powerful issue within local political debates in the Rift Valley. For instance, Kalenjin leaders justified their efforts to push the Luhya out of Trans Nzoia district by proclaiming that it had belonged to the Pokot sub-group of the Kalenjin before the colonial conquest. Pokot elders pursued this claim in representations to the Kenyan and British governments, as well as to the United Nations working group on Indigenous peoples. In letters to the British High Commission, the Pokot elders referenced colonial era maps as they sought compensation and restitution for what they described as their 'expulsion' from grazing areas that now lay within the boundaries of Trans Nzoia.[1]

The bitterness created by the colonial annexation of land was exactly by the post-colonial settlement programmes. Communites such as the Samburu, Maasai and various sub-groups of

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[1] ' Pokot elders want borders reviewed', *the clashes update*, June 1996, pp. 1-2.

Kalenjin community believed that, instead of allowing them to return to the land stolen from their parents and grandparents, the Kenyatta regime had consolidated their dispossession by allocating that land to Kikuyu farmers after independence. A Kalenjin informant told Africa Watch that 'at independence Kenyatta gave all land to the Kikuyu and the Kalenjin got nothing, so now the Kalenjin must take land back'.[2] Many Kalenjin, Samburu and Maasai fears that a victory for the opposition would herald an expansion in Luhya, Luo and Kikuyu settlement in the Rift Valley.

Besides this broad history of land disputes, the violence of the 1990s was made up of a series of more localized contests over access to land. It is easy to explain why, in seeking to resolve these disputes, Kenyans turned to violence rather than to well-established state institutions or legal mechanisms: those institutions and mechanisms had fallen into disrepute. The differences between the Kenyatta and the Moi eras tend to be greatly exaggerated by critics of the latter; but in certain respects there were indeed some critical variations in the ways policies and institutions worked before 1978 and after especially the area of Land policy.

Whatever one thinks of the way in which settlement of the Rift Valley and other parts of the country was carried out; it was at least done with a semblance of organization and was backed by a bureaucracy. As a result, landholders could feel secure that their claim to the land was safe. As one 1971 study of this very question found, property owners 'did not feel very insecure, or worried about losing large portions of their land'.[3] But that confidence was eroded over subsequent decades. By 2001, an inquiry led by the rehabilitated Charles Njonjo found that the

[2] Africa watch, Divide and Rule: *State-sponsored ethnic violence in Kenya*, New York, 1993, p. 88.
[3] Rodney Wilson, 'the economic implications of land registration in Kenya's smallholder areas', *staff paper no. 91, Institute for Development Studies*, University of Nairobi, February 1971, 0. 21.

government had overseen a 'breakdown in the administration of land laws as a whole and abuse of office by public officials dealing with land matters'.[4] The result was that:

> The public has lost faith and confidence in the existing land dispute settlement mechanisms and institutions, because they are characterized by delays, incompetence, corruption, nepotism, political interference and overlap of roles or functions, leading to conflict, confusion and unnecessary bureaucracy especially when there is a low participation of the local people in Land disputes resolutions mechanisms.[5]

Without recourse to formal state institutions to resolve land disputes, many Kenyans turned to other ways of trying to settle their differences. The crisis in land tenure was of the Moi government's own making. As the economy declined and the state and its public sector shrank, land became a valuable currency with which Moi's regime was able to buy the support of key partners. The grabbing of land for the purposes of political patronage was as naked in the 1990s as it had been at any stage since the colonial era; Jacqueline Kloop terms it a time 'land grabbing mania'.[6] As a major drive began in the late 1980s to formally register landholdings and to issue land titles, local authorities and powerful individuals seized the opportunity to dispossess Kenyans in urban and rural areas. In the Trans-mara area of Narok district, for example, Kisii and Luo families were expelled from land they had worked for the previous two decades. Kisii farmers had taken long leases or had purchased land from Maasai on an informal basis: neither the lease agreements nor the land purchases were supported by official paper work.[7] In his parish close to the boundary between Kisii and Narok districts, Father John Kaiser watched during 1986 and 1987 as 'thousands of the Kisii people passed through Nyangusu and Ramasha carrying

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[4] Rebulic of Kenya, Report of the Commission of Inquiry into the land law system of Kenya on principles of National land policy framework, *Constitutional position of Land and new Institutional Framework of Land Administration*, Nairobi, 2002, p.7.

[5] *Ibid*, p.78

[6] Jacqueline Kloop, 'Pilfering the public; The problem of Land grabbing in contemporary Kenya' *AfricaToday*, 47(1) (2000), pp. 7-26.

[7] John Rogge, The internally Displaced Population in Kenya, Western, and Rift Valley provinces: *A need assessment and a program proposal for rehabilitation*, Nairobi, 1993, p. 34.

whatever belongings they could, probably to start life all over again – as refugees'.[8] Behind them, the land they left was quickly grabbed. Between 1989 and 1993, more than 837 title deeds were issued in Trans Mara, and plans were laid for a massive expansion in the subdivision of group ranches and the demarcation of individual plots of land.[9]

Such scenes were witnessed across the country. Alexander Muge, the Bishop of Eldoret, denounced the 'brutal and lawless' evictions seen on Mount Elgon, in Nyeri and in Nairobi itself.[10] Under the pretence of concern over security and sanitation, a series of informal settlements dotted around the capital were destroyed in the final weeks of 1990. Nearly 1,500 businesses, mainly small kiosks and shops, were demolished and more than 45,000 people displaced. Within hours, formerly bustling neighbourhoods were in ruins. In most cases, demolition was swiftly followed by erection of fences and the sale for private development of what had been publicly owned plots of land.[11]

Migrants who had moved into districts in the Rift Valley after independence were particularly vulnerable to forcible expulsion. Like the Kisii residents of Narok, most victims of the clashes did not have the title to the land from which they were displaced. Whether because of delays to surveys, corruption and ineptitude within the local administration, beset as it was by graft and nepotism, or simply because the farmers had not yet repaid the loans used to buy the land, but which needed to be settled before a land title could be issued, the victims of the violence were in a weak position[12]. In Nakuru district, many of those who had bought land as part of a much larger cooperative or had been issued land by the big –buying companies such as Ngwataniro

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[8] John Kaiser, *If I die*, Nairobi, 2003 pp. 27-8.
[9] Office of the Vice-president and ministry of planning and National development, *Narok district development plan 1994 – 1996,* Nairobi 1994, pp 105, 139. .
[10] Africa Watch, *Taking Liberties*, p 242.
[11] NCCK, Nairobi Demolitions: *What Next?* Nairobi, 1991.
[12] Rogge, *Internally displaced population in Kenya*, p. 37

still had not had their plots formally demarcated or had title deeds to them[13]. In the Uasin Gishu district, which encompassed Eldoret town, more than 50 per cent of the total land mass had not been demarcated[14].

In many places, registration of land ownership occurred at the same time as multiparty politics resumed. In Nandi district, more than 38,000 title deeds were issued between 1989 and 1993[15]. At Meteitei, the site of the first outbreak of violence, the issuing of land titles was already under way but was only completed after the clashes began and non-Kalenjin families had been forced to leave. This pattern or prior conflict, disputes over land and uncertainty about the future was a feature of a number of locations where the clashes were most intense. At Owiro, also in Nandi, a survey of the landholdings of the mainly Luo residents were just beginning when the violence ignited. The same was true at Kotetni Kunyak, Ochoria, and Buru Theselia in Kericho, and Koguta in Kisumu.[16]

For many Kalenjin, Maasai, Turkana and Samburu, the issuing of land titles in the rift valley threatened to make permanent the presence of groups they considered to be outsiders. Those fears were heightened by the prospect of FORD winning the forthcoming election, which KANU's supporters thought would herald a consolidation of the position of Kikuyu, Luhya, and Luo in the province. But besides posing a threat to the self –proclaimed indigenous population of the rift valley, the elections also presented an opportunity. Politicians were flush with campaign funds that some raised through the corruption deals and their aim of expelling the outsiders for political reasons was in line with the hopes of many of their constituents. An ethnically cleansed

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[13] Office of the Vice president and Ministry of Planning and National Development, *Nakuru District Development plan 1994-1996*, Nairobi, 1994, pp. 105, 139.

[14] Office of the Vice president and Ministry of Planning and National Development, *Uasin Gishu District Development plan 1994-1996*, Nairobi, 1994, pp. 11, 19, 79-80, 125.

[15] Office of the Vice president and Ministry of Planning and National Development, *Nandi District Development plan 1994-1996,* Nairobi, 1994, pp. 146-7.

[16] Rogge, *Internally displaced population in Kenya*, p. 34.

Rift Valley fitted the objectives of the president, his MPs and their supporters. The years 1991 and 1992 seemed to represent a last opportunity for the self-proclaimed indigenous population of the rift valley to force those they saw as aliens off disputed land.

Throughout 1990 and 1991, the government attempted to deflect support for the opposition by promising internal reform of KANU. Oginga Odinga, ever impatient, attempted to force the pace of change. He made a short lived effort to establish a new party in February 1991, but was blocked from doing so by the government. In August he tried again. Together with fellow veterans Masinde Muliro, Martin Shikuku and George Nthenge, Odinga announced plans to establish the Forum for the Restoration of Democrac (FORD). They told journalists, 'that they were at the forefront of the struggle for independence and the fathers of the independence constitution upon which the freedom of Kenya and the liberty of the citizens was founded and safeguarded'.[17]

As the talk of multipartysm gathered pace, an older and a fraught discussion resurfaced. As a subject of national political debate, majimboism had been moribund since shortly after the absorption of KADU into KANU back in 1964. Senior Kalenjin political leaders held a series of Public meetings in the Rift Valley Province during the weeks that followed. Led by cabinet ministers and MPs, including Henry Kosgey, these meetings produced a variety of resolutions. Warnings were issued to FORD's leaders to stay out of the Rift Valley, and to ordinary Kenyans, other than Maasai and Kalenjin, to stay put in their own provinces. Bishop Manasesses Kuria was dismayed: This is a system that Kenyans rejected almost 30 years ago. The very idea of reviving it to counter multiparty demands had all the elements of mischief. Anything that is

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[17] Wachira Maina and Chris Mburu, 'the Forum for Restoration of Democracy in Kenya' *Nairobi Law Monthly*, August 1991, p. 16

likely to cause disharmony, strife and chaos is evil; it is satanic.[18] Kuria's concerns reflected a broader awareness of the threats of violence posed by the advocates of the new majimboism.

Those threats were first made good at Metetei Farm in Nandi district during October 1991. The farm was typical of many areas of the western Rift Valley. It was a former settler-owned property that had subsequently been subdivided among smallholders and their families. It was multi-ethnic, too. Given the proximity of the farm to Nyanza province, a great many Luo took up residence there – to the chagrin of local Kalenjin, who thought the land was theirs by right. Besides those disputes, Meteitei had been blighted for years by disagreements and resentment over the way in which plots had been allocated on the farm. Kalenjin residents of the area felt that they had been doubly wronged, and in 1991 they had their revenge. As the violence began, Luo families were forced from their homes by kalenjin youths. Within days, the violence spread quickly from Meteitei to other similar settlements in Nandi district, and then into the neighboring districts of Kericho and Kisumu. By the end of November, six people had been killed in the clashes and nearly 22,500 displaced. Schools were closed, homes destroyed and property stolen.

The political context of the violence was immediately apparent. Church leaders rightly recognized that the violence was far from spontaneous. 'These tragic happenings are orchestrated', the catholic bishop of Nakuru, Raphael Ndingi Mwana a'Nzeki, stated bluntly. Those responsible were the politicians campaigning for majimboism in their 'irresponsible statements made in Kapsabet, Kapkatet, Kericho and Narok'.[19] Everyone knew that any future election would likely be decided in the Rift Valley, given that the province accounted for nearly a quarter of all the seats in parliament. But with the opposition dominated by Kikuyu, Luhya and Luo leaders, KANU's leadership feared that populations belonging to those groups in the Rift

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[18] Njehu Gatabaki, 'Peace: interview – the Most Rev. Manasses Kuria', *Finance,* 16-31 October 1991, p.37.
[19]'The Nandi clashes "a very dirty affair" ', *Nairobi Law Monthly*, November 1991, pp. 19-20.

valley would swing behind FORD. This worried both the president and his MPs from the province. The Rift Valley was therefore declared a 'KANU zone'. Loyalist leaders from Kalenjin, Maasai, Turkana and Samburu communities commonly referred to collectively by the acronym (KAMATUSA) declared themselves to be representatives of the indigenous population of the province. They demanded the expulsion of Luhya, Luo, Kikuyu residents. This was nothing short of ethnic cleansing in the Rift Valley'.[20]

For individual MPs and candidates in the Rift Valley, the strategy was appealing, since they could rid their constituencies of likely opposition supporters of rival candidates from entire provinces. Amendments to the constitution made it necessary for the successful candidate in the forth-coming presidential contest to gain not just the most votes nationwide, but also at least a quarter of the votes cast in five of the eight provinces. If likely opposition supporters were expelled from the Rift Valley in large enough numbers, it would be that much harder for any of Moi's rivals to reach that benchmark.[21] The government was not simply interested in arithmetic, however. It also wanted to discredit the whole notion of democracy. 'Since multipartysm came, you can see tribal clashes have started,' Moi told Kenyans in late January 1992. 'I warned of such violence earlier.'[22] He hoped that voters would exact retribution on the opposition for bringing unnecessary suffering to the country, and so allowed ethnic violence to take hold. This is what the political scientists Patrick Chabal and Jean- Pascal Daloz term 'disorder as political instrument; the deliberate instigation of violence by states for political ends'.[23]

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[20] National Election Monitoring Unit (NEMU), *courting Disaster: A report on the continuing terror, violence and destruction in the rift valley, Nyanza and western Provinces of Kenya,* Nairobi, 1993, p. 5.

[21] Republic of Kenya, *report of the Judicial Commission Appointed to Inquire into Tribal clashes in Kenya*, Nairobi 1999, p. 91.

[22] NEMU, *courting disaster,* p. 12.

[23] Patrick Chabal and Jean-Pascal Daloz, *Africa Works: Disorder as political instrument*, Oxford, 1999.

The politics of the violence was well understood by its targets. Opposition leaders suspected that the Youth for KANU '92 group known widely as YK'92 was involved in the incitement and organization of violence. YK'92 was led by Cyrus Jirongo, a businessman with close ties to the Moi family who was alleged to be involved in numerous corruption scandals through the early 1990s. According to one arson victim in Nandi, 'My uncle was told if you are not for the FORD meeting then you are one of us – if you are one of us, you must help burn the houses.'[24] As elections due the following year drew closer, the violence spread across western Kenya. Twelve people were killed in Kakamega, around a hundred were injured and hundreds more were displaced. 'This was the most tension-backed Christmas', wrote one resident of Kakamega:

> As people celebrated the Lord's birthday, houses could be seen burning, having been set ablaze by arsonists … it was a war of bows and arrows… Several people have been killed and quite a number have been injured.

Another described how

> On the roads people are walking with arrows and spears, and women are carrying bundles, going for refuge somewhere. It is Nandi's vs Luhya's, although it is everywhere. The few Nandis caught say they have been sent by powerful people in the government.[25]

It is surprising that more people were not killed, given the ferocity of the attacks. Church workers witnessed an assault on Luhya residents of farmland around Endebess, to the east of Mount Elgon, on 26 December at 8pm, bullets were fired at the targeted homes and the attackers made 'a war cry'. Hearing the Kalenjin youths approaching, the mainly Luhya targets fled their homes. A hail of arrows caught those who were slow to evacuate their homes, but as the youths arrived they found most of the houses empty. The invaders set about looting the houses for abandoned possessions, and then they torched homes, grains stores and crops in the fields. When some of the residents returned to the scene the following morning, almost nothing remained of

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[24] The Nandi clashes "a very dirty affair" ' , *Nairobi Law Monthly*, November 1991, pp 19-20.
[25] Kiraitu Murungi, 'Kenya's dirty war against multiparty democracy', *Nairobi Law Monthly*, January 1992, p. 29.

their homes. They had no choice but to head to the smaller towns such as Endebess where thousands of refugees struggled to build shelters out of whatever materials they could find in burgeoning shanty neighborhoods.[26]

Opposition leaders and prominent voices from civil society called on the government to provide protection to the communities being attacked. Masinde Muliro pleaded with Moi to 'restrain people of the Kalenjin community from political thuggerry in western Kenya' – but to no avail. Indeed copious evidence was building up of the state's involvement in the violence. As the Catholic Bishops argued:

> There has been no impartiality on the part of the security forces in trying to restore peace. On contrary, their attitude seems to imply that orders from above were given in order to inflict injuries only on particular ethnic groups … It is difficult for the government to exonerate itself from the responsibility of these violent clashes. [27]

A parliamentary select committee inquiry conducted in early 1992 was fierce in its condemnation of all sections of the government. Provincial administration officials 'directly participated or encouraged others and the Judiciary acted in a reluctant fashion against those responsible for the violence and were partisan in several cases when dealing with clash situations'. State-run media outlets 'did not give comprehensive information to the public'. Finally, the parliamentary report stated unequivocally that politicians incited the violence.[28]

The government obstructed all efforts to investigate properly and to stop the violence. The speaker in parliament, Jonathan Ng'eno, blocked four separate attempts to have parliament discuss the issue. Ng'eno was subsequently implicated in the training and equipping of

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[26] National Council of Churches of Kenya (NCCK), the cursed Arrow: *contemporary report on the politicized violence in the rift valey, Nyanza and Werstern provinces, vol. 1*, Nairobi, 1992, p.6.

[27] Catholic Bishops of Kenya, *A call to Justice, love and reconciliation*, Nairobi, 1992, pp, 4-5; Catholic Church Kenya vertical file; *Herskovits Library,* Northwestern University.

[28] National assembly, *report of the parliamentary select committee to investigate Ethnic Clashes in Western and other parts of Kenya*, Nairobi, 1992, pp 79-81

perpetrators of the clashes.[29] The indifference at the very top of the government to the plight of the victims was mirrored throughout the security forces and the judiciary. One victim of the clashes in Nandi district told the press:

> Most of the police here are Nandi's, they watch or collaborate. I went to the sub-chief, who tells me to go to the chief, who tells me to go to the DO (District Officer). I go to the DO and police who tell me to go away.[30]

Police and local officials at Koguta, a settlement scheme along the main road connecting the centre of the tea industry at Kericho and the Lakeside city of Kisumu, taunted victims of the attack there with the ironic two-fingered salute of FORD and told them: 'Let the FORD help you.'[31] Victims were treated little better by the courts, which commonly released perpetrators on bail and handed out minor sentences to the more than one thousand individuals charged with involvement in the violence. In any case, the corruption and political manipulation of the judicial system had long since eroded the faith of Kenyans in the courts. As one victim of the violence on Mount Elgon put it: 'we did not think of using the courts. We never thought about it.'[32] Journalists attempting to investigate the clashes were harassed, emergency legislation was used to restrict access to sites affected by the violence, and human rights activists were prevented from operating unimpeded in those locations. The regime was fighting for its life.

Numerous investigations into the violence highlighted how government vehicles were used to transport raiders around the affected areas. This indicated that MPs and local administrative officials were responsible for organizing and facilitating the attacks.[33] At Sondu in Nyanza, for example, the youths who were probably responsible for the attacks on Luo residents were not local Kalenjin. They were instead transported to Sondu from neighbouring Rift Valley, most

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[29] NEMU, *Courting disaster*, P. 9.
[30] 'The Nandi clashes "*a very dirty affair*" ', Nairobi Law Monthly, November 1991, pp. 19-20.
[31] NCCK, *The Cursed Arrow*, p. 7.
[32] African Rights, *Kenya shadow Justice*, London, 1996, p. 81.
[33] NEMU, *Courting Disaster*, p. 8.

likely from Moi's home area of Baringo.[34] The raiders were frequently paid for their efforts: one witness told a later parliamentary inquiry that he had received "Kes 1,000 per person killed and kes 600 for each house burned'.[35] Though sparked off by such outsiders, however, the violence quickly became internalized within communities. Put in disconcertingly simple terms, the violence proved popular with many members of Kalenjin communities in the Rift Valley.

The fragile peace brought by the holding of the elections remained in place until March 1993, when a high level delegation from the IMF and the World Bank left the country after a visit to assess the pace of economic and political reform. Once the election observers, journalist and economists had returned home the violence resumed. Oscar Kipkemboi, the chairperson of YK'92 in Nakuru district promised it would only end once all Kikuyu had left the Rift valley. Oginga Odinga begged Kalenjin to cease their attacks on their neighbours and urged the attackers to think again if they believed they could push all non-Kalenjin out of the rift valley 'through a war of arrows'[36] Kalenjin leaders paid little heed to such warnings.

At Londiani, the Presbyterian pastor, Solomon Kamau, was one of those Kikuyu targeted by Kalenjin youths. His home was looted and then burnt to the ground on 22 June 1993. He understood the message, telling the NCCK that 'this harassment is meant to scare off non-Kalenjin who have refused to bow to the eviction crusade in the rift valley'.[37] A burst of arson attacks against Kikuyu families living near Eldoret on the night of 10 July 1993 came after Jackson Kibor, the local chairman of KANU in the district, told a fundraising meeting at a primary school that all Kikuyus should be forced to leave the area. In the days that followed,

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[34] NCCK, *Cursed Arrow*, p. 10.
[35] National Assembly, *report of the parliamentary select committee*, p. 51.
[36] 'A glance at the events in the hot spots', *The clashes update*, July 1993, p. 3.
[37] 'No hope for victims in Nyayo regime – pastor', *The Clashes Update*, July 1993, p. 4.

there was an intensification of theft and arson attacks against Kikuyu living around Eldoret.[38] Over a hundred people lost their lives and 15,000 fled their homes in Molo, near Nakuru, as attacks on Kikuyu there began in August 1993. Along the Narok and Kisii district boundaries, Maasai youths continued to target Kisii communities. New arrangements were put in place in Narok district to allow the local administration to monitor land sales, so as to prevent non-Maasai from buying land in the area.[39] The violence reached West Pokot in late October and early November 1993, and was prompted by a series of announcement by the local MP and cabinet minister, Francis Lotodo, who announced that non-Pokot should leave the district.[40] The renewed violence was particularly bad on Mount Elgon. Gangs of Sabaot youths, together with their ethnic kin, the Sebei from across the border in Uganda, targeted non-Kalenjin living on and around the mountain in an effort to seize land and create ethnically homogeneous districts and parliamentary constituencies. Those expelled from their homes on Mount Elgon were forced to take refuge in temporary shelters, in schools and in church compounds. At Kapkateny in Bungoma district, Africa Watch investigators found a hundred refugees from the clashes on the mountain living together: 'in a one–room shed of approximately twenty by six feet, the displaced population lives in cramped, unhygienic conditions. People have nothing but potatoes and maize meal given by the churches'.[41] Rather than alleviate their suffering, the government urged the displaced to return home.

Government advice to go back to the farms paid no heed to the reality of life in areas affected by the clashes. No effort had been made to disarm those responsible. 'Without the return of guns, we are not well', said Judith Kundu who had been expelled from her home on Mount Elgon. She

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[38] 'Kibor sparks off violence' , *The Clashes Update*, August 1993, pp. 1-7.
[39] 'Maasais still attacking Kisii's' '*The clashes Update*, August 1993, p. 5.
[40] 'Lotodo still determined to flush out non-Pokots: Kapenguria hospital is Lotodo's target', *The Clashes Update*, Dember 1993, pp. 7-8.
[41] Africa Watch, *Divide and Rule*, p. 36

had attempted to return to her home on the mountain but had been forced out for second time.[42]

Others who tried to return found their former homes occupied, either by those responsible for the violence or by others expelled from other parts of the surrounding area. On Mount Elgon the situation was further complicated by the settlement of Sebei on the farms left behind by the targets of the clashes. With the encouragement of local Saboat leaders, some 350 individuals- descendants of the 10,000 or so Sebei who had left Kenya in the 1930's in search of land – crossed the border from Uganda to make good what they considered to be their historic claim to the land on the mountain's slopes. The Sebei were determined to resist any attempts by the rightful owners of homes and farms to return. Peter Wafula, an elderly man, and his wife Teresa tried to return to their land at Ite in early March 1993. The Luhya couple were shot dead, despite the presence of police officers.[43]

The government was still determined at all cost to prevent investigation of violence and of the plight of its displaced victims. Affected areas were closed off to outsiders to frustrate prying eyes, and sustained efforts were made to silence high-profile voices of criticism. As part of this effort, father Tom O'Neil was banned from saying mass at his church in Enoosupukia in Narok. O'Neil was outraged by the expulsion of Kikuyu residents of the area, many of whom held title deeds for land they had farmed since late 1960's. This expulsion followed a declaration by the local MP and minister for local government William Ole Ntimama, that Kikuyu in Enoosupukia were illegal squatters. Ntimama demanded that they leave the district immediately. 'Kikuyu had oppressed the Maasai, taken their land and degraded environment,' he told parliament. 'We had to say enough is enough. I had to lead the Maasai in protecting our rights'. Over three days in

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[42] 'Future of Clash victims bleak', *The Clashes Update*, April 1993, p. 4.
[43] 'Victims crying for security but state firm with deaf ear', *the Clashes Update*, April 1993, p. 7.

mid-October, Maasai youths mounted a series of raids on Kikuyu homes around Enoosupukia in which seventeen people were killed and 30,000 forced from their homes.[44]

Around a third of the refugees from Narok formed a camp at Maela in Nakuru district, where they lived in dismissal conditions. Having already gained considerable publicity for his denunciations of the evictions, O'Neil took up the cause of the plight of his former parishioners. He was ordered to leave the country. The government had good reason to be embarrassed by the situation. Rather than alleviate the suffering of those lacking shelter, proper food supplies and medical support, the authorities tried to close the camp at Maela. The 10,000 or so displaced Kikuyu there were served with an eviction order soon after they arrived. The first effort to enforce that order resulted in the destruction of homes in the camp and the eviction of around 6,000 people. Nevertheless, 4000 men, women, children remained; they had nowhere else to go. But the government was determined to make them leave, and so blocked deliveries by humanitarian groups of food, medicines and blankets. But still the refugees remained.

Finally two days before Christmas 1994, the camp was cleared. Its American catholic chaplain, Father John Kaiser, watched as the local administrative official ordered the residents to leave behind their possessions and to board trucks. As they did so, the official told them they were being taken to the 'promised land'. Around them, local KANU activists destroyed their temporary shelters and stole or bunt their meagre possessions. The trucks left the camp and headed for the escarpment of the Rift Valley and Central Province and beyond. There they 'were simply dumped by the roadside or on a football stadium, in the middle of the night.[45] The

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[44] ICJ-K, *Political Economy of Ethnic Clashes*, p. 31.
[45] Kaiser, *if I die*, pp. 57-61

Promised Land was in fact just another desperate corner of Moi's 'land of dread and desolation'.[46]

When the country went to the polls on 29 December 1997, Moi again faced a divided opposition. Oginga Odinga's death had led to a power struggled within FORD-Kenya between the veteran leader's son Raila and Michael Kijana Wamalwa. Wamalwa who was tainted by Goldenberg scandal, a Luhya, refused to surrender control of the party, and so Raila formed his own National development Party (NDP). FORD-Asili collapsed under the weight of bickering between its two principals, Matiba and Shikuku. Matiba even decided to boycott the presidential election altogether in protest at the government's manipulation of the process. Kibaki's DP was undermined by its decision to open talks with leading Kalenjin, maasai, Turkana and Samburu elders over the Rift Valley violence. Safina ('Ark' in Swahili), a newly formed party, was up and running just a month before the December election and suffered from considerable harassment of its leaders. These included Richard Leakey, the famous paleoanthropologist, and Paul Muite, who again was tainted by association to the Goldenberg scandal.

Moi set a body known as the Inter-Parties Parliamentary Group (IPPG) to working on the electoral system in his favour by discussing constitutional reform that would allow for fairer elections. The IPPG was unable to introduce restraints on presidential power and therefore Moi and KANU had the usual range of tools to manipulate the outcome of the election. The state-owned media were again used as a propaganda tool, the police harassed opposition supporters, and the provincial administration put bureaucratic obstacles in the path of rival leaders seeking to organize rallies and membership drives. While blatant manipulation of the results of the 1997 election was less evident than in 1992, Charles Hornsby argues that the 1997 polls 'were far more

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[46] NCCK, *Cursed Arrow*, p. 5.

chaotic administratively'.[47] Moi comfortably won the presidential election, with just over 40 per cent of the vote; Kibaki was second with 31 per cent. As in 1992, it is clear that, had the votes cast for the other opposition candidates been added to Kibaki's, a single candidate would have defeated Moi with ease. As it was, Odinga came a distant third, followed by Wamalwa and Ngilu, the Social Democratic Party candidate. In the parliamentary election, KANU again won a narrow majority, with 107 of the 210 seats up for grabs. While local and international observers declared themselves satisfied that the final results were acceptable, it was clear to other commentators that: 'The general election was stolen yet again'[48] But with foreign governments reluctant to declare the elections null and void for fear of provoking instability and further violence, Kenyans had little choice but begrudgingly to accept the result and prepare for five more years of Moi and KANU. Moi promised voters 'a calmer and more confident Kenya where endless confrontation no longer dominates the domestic agenda; a union where political difference do not mean personal antagonisms. [49] Voting in 1997, however, only worsened the already fraught situation in many parts of the country. Once the election results became known and ethnic voting patterns widely circulated, various individuals and communities set out to settle scores.

Violence between Kikuyu and Samburu in Laikipia began in early January. Cattle raids and arson attacks were mounted by Samburu youths. That they wore T-shirts distributed during the election campaign and emblazoned with KANU slogans left little doubt about the motives for the attacks. One Kikuyu refugee told a church group that 'the moment we refused to vote for Kariuki

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[47] Charles Hornsby, Election day and the results' in M. Rutten, A. Mazrui and F. Grignon(eds), *Out for the count*, p. 135.

[48] Willy Mutunga, *Constitution-making from the Middle: Civil society and transition politics in Kenya*, 1992-1997, Nairobi, 1999, p. 235.

[49] 'Clashes hit Rift Valley again', *Update on Peace and Reconciliation*, January 1998, pp.5-6.

and President Moi, we straight away knew that clashes would come to this place'. [50] Similar scenes were witnessed at Njoro in Nakuru district. There Kikuyu youths fought back and targeted local Kalenjin households. Kikuyu manned roadblocks were set up on the highway connecting Njoro with the town of Mau Narok, and Kalenjin travelling along the route were dragged from their vehicles and attacked. In all, more than 300 Kalenjin families were forced from their homes in Njoro during January 1998. 'This is just related to the elections,' one Kalenjin refugee told church workers who visited the refugees camped at Kiginor primary school. 'The Kikuyu are fighting because they did not want to accept that President Moi actually won the elections.'[51] More than a hundred people were killed in Njoro in the four weeks that followed Moi's victory. Despite pleas from church and opposition leaders, the violence continued in the following weeks and months.

In places where clashes had been witnessed before, local populations widely anticipated further conflict. In the absence of adequate protection by the security forces, local residents often took matters into their own hands. In Trans Nzoia, where Pokot youths had long targeted local Luhya, villages had formed vigilante groups. Following a raid on Chorlem village in the district on 27 February, local vigilantes from Chorlem and neighbouring Kapkoi tracked the Pokot raiders to a home in the area, where they found seven individuals. The raiding party surrendered but were beaten to death by the vigilantes. The incident at Chorlem made the conflict much worse. Rather than bringing an end to the raids, vigilantism drove demands for revenge by Pokot. By early April, Lotodo and his ilk elsewhere had forced 30,000 people from their homes and had overseen the killing of more than 120 people in the period since the election. Lotodo was able to operate with impunity. Despite the two men's uncomfortable personal relationship,

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[50] 'Why clashes erupted in Rift valley', *Update on Peace and Reconciliation*, January 1998, pp. 5-6.
[51] *Ibid.*

the president refused to listen to any claims of Lotodo's involvement in the clashes in West Pokot, Trans Nzoia and Marakwet. 'Lotodo is an innocent man who has no problem with everyone in Kenya,' the president claimed.[52]

Violence resumed in the northern Rift Valley in December 1998, for instance, and claimed the lives of around 300 people in the months that followed. The ready availability of firearms made these disputes more deadly than at any previous time: in part due to ongoing conflicts elsewhere in the Horn and Great Lakes regions, by 2002 around 11,000 guns were coming onto the Kenyan black market each year. As the supply increased, so the price of firearms and ammunition fell on the black market. In 2001, Human Rights Watch found guns to be available for very little amount of money.[53] The availability of cheap weapons made cattle rustling a highly profitable business. The large cattle raids witnessed in the northern Rift Valley at the end of the 1990s and the beginning of the next decade were followed 'within two to three days' by 'lorry loads of cattle . . . were being transported out of the Kerio Valley'. The cattle were transported to slaughterhouses around the country, indicating that the raiders were seeking immediate cash returns, rather than putting the cattle into their own herds. The combination of the commercialization of cattle rustling and access to weapons was deadly.

In March 2001, fifty-three Marakwet, mainly women and children, were killed by Pokot raiders at Murkutwo. The victims were attacked in revenge for a cattle raid by Marakwet youths a month earlier. As the cattle stolen were sold almost immediately after the raid, Pokot looking for vengeance were unable to reclaim their stolen livestock and so instead attacked the villagers of

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[52] 'The quotes of the mouth', *Update on Peace and Reconciliation*, April 1998, p. 9.
[53] Human Rights Watch, *playing with fire: Weapons proliferation, political violence, and human rights in Kenya*, New York, 2001, p. 7.

Murkutwo.[54] Lotodo tried to deny responsibility for such events. 'I am not a cattle rustler,' he protested. 'How can a person aged fifty-nine who has a belly engage in cattle rustling?'[55] However, in Kenya's brand of democracy, the politicians who were successful included those like Lotodo who could organize and arm private armies, mount illegal operations like cattle rustling, and force members of other ethnic groups out of their constituencies. By the final years of Moi's rule, the country had entered a constant state of insecurity.

In July 1999, Justice Akiwumi released the report carried out by the judicial commission under his chairmanship into the clashes of the 1990s. The report set out in detail the perpetration of violence by politicians, KANU officials, the provincial administration and officers in the security forces. The report went so far as to name sixty-four individuals who deserved further investigation, including the ministers Nicholas Biwott and William Ole Ntimama, the former provincial commissioner in Coast, Wilfred Kimalat, and the ex-district commissioners of Kwale and Mombasa.[56] Every branch and level of the government was implicated in the clashes of the 1990s, but Moi's regime refused to abide by Akiwumi's recommendations. Its official response dismissed the findings of the report as being based on 'hearsay, rumour or gossip. Morever, the government specifically rejected the recommendations for further investigations.[57] The next chapter will critically analyze the link between the ethnic clashes in Kenya at the wake of the multiparty politics and the heinous electoral violence that was witnesses in Kenya's 2007 elections. This will be done by clearly documenting the findings in light of the analytical tool which is the theoretical framework of consocation model of power-sharing.

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[54] NCCK, Netherlands Development Corporation and Semi-Arid Rural Development Programme, *Pacifying the Valley; An analysis on the Kerio Valley Conflict*, Nairobi, 2002

[55] 'Lotodo on Cattle rustling', *Update on Peace and Reconciliation*, March 1999, p. 7.

[56] Republic of Kenya, *Report of the Judicial Commission Appointed to Inquire into tribal clashes in Kenya*, pp. 286-91.

[57] Republic of Kenya, *Comments by the Government on the Report of the Judicial Commission Appointed to Inquire into Tribal Clashes in Kenya (Akiwumi Report)*, Nairobi, 1999, p 30

CHAPTER FOUR: CRITICAL ANALYSIS OF POWER-SHARING IN ENDING AFRICA'S ELECTORAL VIOLENCE

This chapter basically ties the knot by linking the three chapters discussed earlier on and provides an analytical perception to the thesis. The theoretical framework of consociation power-sharing model is the analytical tool that forms the basis for determining the relevance of the hypothesis with a view to meeting the objectives of this thesis while presenting the findings.[1] Through narratives in the previous chapters, I have been able to include detailed analysis of various events as well as to simplify the reality by determining the elements of the historical accounts that are salient and worthy of attention, and those that are insignificant and require omitting.

Kenya has been riddled with violence throughout its brief history as a nation. The 2007 post-election violence in Kenya, however, was of a different magnitude. The magnitude of the trauma and structural violence that took place in Kenya after the fourth multi-party general election took both Kenyans and the international community, alike, by surprise.[2] The severity of this conflict unfolded in a span of 59 days between Election Day, December 27th, 2007 to February 28th, 2008, when a political compromise was reached. The carnage was horrific, 1,500 dead, 3,000 innocent women raped, and 300,000 people left internally displaced. Most of these atrocities happened in the first 14 days after the 2007 Kenyan general election. In retrospect, the violence that occurred could not only have been predicted, it could most likely have been prevented.

One of the foundations of this conflict analysis is that what took place during the Kenyan 2007 elections had its roots in a weak national constitution that progressively lacked healthy checks

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[1] Büthe, Tim 2002. "Taking Temporality Seriously: Modeling History and the Use of Narratives as Evidence" *The American Political Science Review*, 96(3): 481-493.

[2] Maupeu, H. (2008). Revisitng post-election violence. Lafargue, J. (Ed.). *The general elections in Kenya, 2007.* (pp. 187-223). Dar es Salaam: Mkuki na Nyota Publishers, Ltd.

and balances system within the branches of government. Over the span of three decades, amendments to the constitution were made to systematically erode these balances in favor of strengthening presidential powers. The result of these broad powers effectively made the presidential office equivalent to a dictatorship, which gave the president the ability to use and abuse this power without restraint. The Kenyan citizen's life experience of understanding conflict through the dominance of the executive and political elite is illustrated by the fact that the constitution was amended 28 times from 1963 to 1992, each time limiting the freedom of its citizens and expanding the power of the executive and political elite. In contrast, the US Constitution, which from 1788 to 1992 was amended 27 times, with arguably 18 of the 27 protecting or expanding freedom of its citizens.

Although the 1990's violence was closely tied to electoral politics, there was a pause in the clashes around the time of the two December elections of the 1990s. The arrival of election observers and greater international attention increased scrutiny of Kenya's affairs. Areas affected by the violence were put under curfew and were subject to extensive police patrols. The hiatus allowed some sort of audit of the damage: around 300,000 people had been displaced and more than 1,500 had been killed in the fourteen months leading up to Election Day. Children made up three-quarters of all those displaced and their education were devastated as schools closed and families were forced to take up residence in temporary camps. The dislocation of families from their crops increased dependence on purchased food stuffs and removed a valuable source of income. Households that took in displaced relatives and friends also found their incomes stretched.[3] The abandonment of farms meant that food was in short supply. After attacks on Kikuyu residents of Gitwamba, at the foot of Mount Elgon, the once thriving market in the

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[3] Maupeu, H. (2008). Revisitng post-election violence. Lafargue, J. (Ed.). *The general elections in Kenya*, 2007. (pp. 2-3). Dar es Salaam: Mkuki na Nyota Publishers, Ltd..

trading center became moribund. Local dairy production was wiped out and land prices collapsed to less than a third of their values prior to the violence.[4] The effects of the violence could be seen on the beaches and in the game parks too. Visitors stayed away and the tourist revenues shrank by more than half.

With the conflict paused, attention shifted to the election itself. In the heady days following Moi's announcement that multiparty politics were to resume, chances of a KANU victory seemed remote. But as the opposition proved incapable or remaining united, the prospects of Moi and KANU remaining grew. FORD was afflicted by several divisions. The first was generational: right from the time of its foundation in 1991, the small group of veteran politicians who had established the party felt threatened by the so-called 'young turks'-the professionals from the words of academia, journalism and law, such as Peter Anyang Nyong'o, Paul Muite and Gitobu Imanyara. The second division emerged as FORD's membership expanded in the wake of the decision to legalized opposition parties. The parties dissident roots were in danger of being swamped by Kikuyu conversatism, as figures like Njoroge Mungai joined it, regarding FORD as the best vehicle for a renaissance of the Kenyatta era. Such figures had little in common with the party's founders and endangered its reformist image.

Aside from its internal problems, FORD proved unable to retain its monopoly on opposition. From January 1992, it faced a rival in the democratic party (DP). The DP was founded by Kibaki, following his resignation from the government and KANU. He had been a disconsolate passenger in the government after his demotion from the position of vice president in the wake of the 1988 elections. He had nevertheless remained a public supporter of Moi and had famously dismissed FORD's chances of defeating KANU as 'trying to cut down a fig tree with a razor

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[4] International commission of Jurists (Kenya Chapter) (ICJ-K), *The political Economy of Ethnic Clashes in Kenya*, Nairobi, 2000, pp.62-3.

blade'.[5] He did think, however, that KANU had to undergo reform to become more accountable and transparent if it was to survive as the ruling party. Moi was unimpressed, however, and made plans to fire his oldest ally; Kibaki resigned instead.

The DP garnered much elite Kikuyu support, but was hampered in its bid to build wider backing. In Karume's account of its founding, the party was simply a vehicle for the ambitions of its leaders, who had thought that KANU was doomed but who were too late to have any chance of playing leading roles in FORD. There was 'no possibility of becoming party leaders in FORD because it was already like a top –heavy, overloaded ship that was bound to sink under the weight in due course.[6] Kenyans rightly cynical about Kibaki's motives, and DP suffered further from unflattering comparisons between his late conversion to multipartyism and the courage demonstrated by FORD's leaders. Although John Keen, a veteran maasai politician, was among the party's founders, the alignment of the DP and the old kikuyu elite hardly reassured voters outside of Central province that the new party represented a break with the past. Moreover, it was unashamedly elitist in its outlook. It was, as a political scientist and later key supporter of Kibaki, Kivutha Kibwana, remarked, a party the World Bank should like.[7]

Despite the emergence of the DP, a united FORD remained a likely victor in a free and fair election. That unity was by no means assured, however. As the election approached, the question of who was to be the party's presidential candidate became more pressing. For many years of FORD's members, the party founder, Oginga Odinga, was the natural choice. Others disagreed and thought Kenneth Matiba deserved the privilege. Matiba have been absent from the day-to-day business of politics since his arrest shortly before *saba saba*. His health had suffered while

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[5] Karume, *Beyond Expectations*, p. 265.
[6] Karume, *Beyond Expectations*, p. 263.
[7] 'Kibaki's Democratic party: A party the world Bank should like', *Nairobi Law Monthly*, January 1992, p. 262.

he was in prison, and after his release he travelled to London for specialist treatment and along period of convalescence. He finally returned to Kenya on 2 May 1992, to be greeted as a returning hero. 'hundreds of thousands of jubilant supporters lined the road leading from the airport into the city,' Karume recalls. 'a tourist or visitor who was not familiar with Kenya's politics might have thought it was the pope who was arriving.[8] With his return, Matiba brought the tensions within FORD to the surface. His overwhelming support among kikuyu was not matched elsewhere in the country, but he was reluctant to be anyone else's running mate in the forthcoming elections. By contrast, Odinga could claim to have nationwide support and saw the election as a chance to make good political career marked by frustration and defeat. Neither man was prepared to give way.

There was little in the avuncular Matiba's policies or life history that suggested he would redress the problems of poverty and inequality. He had served as a senior civil servant under Kenyatta before leaving government to head up East African Breweries, the producers of Kenya's ubiquitous lagers. In that role, and in other corporate positions, he had attracted a great deal of publicity. Similarly, he had made good use of a spell leading the Kenya football federation to maintain his position in the public eye before he returned to politics as an mp in 1983. He was unabashed member of the kikuyu elite, and his ideas about the economy and society had much in common with those that had been espoused by Kenyatta: the economy can only be salvaged by ourselves through hard work.[9] Radical remedies for inequality were unsuitable, because what benefit do you get of destroying something good?' Matiba saw his goal as building 'an enabling climate for the creation of wealth'.[10] He understood the struggle for democracy and the power

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[8] Karume, *Beyond Expectations*, p. 262
[9] Kenneth Matiba, *A dream for Kenya*, Nairobi, 1992, p.22.
[10] *Ibid.,* p. 263.

struggle within FORD in terms of the boardroom and the market. But Matiba's message did not help him to reach out beyond his Kikuyu supporters. 'I have always believed in competition,' he wrote:

> It works so well in business and industry where it enables the customer to get the best product, the best service, and the best value for his money. In opposing Odinga or anybody else, I want to demonstrate that the spirit of competition in the business world can work in politics as well.[11]

Odinga's much longer personal history of opposition and promises of social justice were of far greater appeal to Kenyans at large, but by the early 1990's even he had dropped his cherished ideas of redistribution. Having learned bitter lessons from his past, Odinga was anxious to avoid divisive issues and to retain FORD's broad base. As he told the *Nairobi Law Monthly*, he knew only too well that the FORD coalition could easily suffer from 'cracks which will always emerge due to individual movements. Odinga therefore attempted to emphasize widely shared concerns, most notably corruption. Corruption is one of the major problems that international support was essential if Moi was to be toppled, and so was careful to avoid alarming diplomats with any allusions to his past political battles:' The investors would like to deal with people who are honest and sincere in handling the affairs of the country. They would like to get returns from their investments in our country[12]. Odinga had calmed in his old age.

With the announcement of the date of the election imminent, FORD finally split in two in October 1992. Odinga led FORD-Kenya and Matiba FORD-Asili into the December elections. As David Throup and Charles Hornsby note in their encyclopaedic account of the period:

> Only a united FORD with Matiba and Odinga working in harness for victory, might have stood a chance of defeating KANU with its control over government

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[11] *Ibid.*, p. 28.
[12] 'Interview with Oginga Odinga', *Nairobi Law Monthly*, January 1992, pp. 21-3.

patronage and the state machinery given that the DP would already split the opposition vote[13]

A victory for KANU and Moi, unthinkable just a few months before, was now likely. The government was careful to leave nothing to chance, however. As Maathai complained in an open letter to Moi after the results were declared, the 'Electoral Commission, the state mass media and the Civil Service were all used to rig your Excellency back to power'[14]. The campaign was marked by significant corruption, intimidation and other malpractices. High numbers of KANU candidates were able to stand unopposed, the Electoral Commission was seen to be in the pocket of the government, and the officers in the provincial administration continued to serve their political masters rather than the Kenyan people.

Moi and KANU were therefore able to survive the election held on 29th December 1992. The president faced down the challenge from Matiba, Kibaki and Oginga Odinga, despite winning just 36 per cent of the votes casts in the presidential election-his three rivals split the opposition vote. In the parliamentary polls, the ruling party was even more successful, with KANU returning 100 MPs, the two FORDs winning 31 seats each, and 23 seats going to Kibaki's DP. The opposition parties rejected the results, but had no way of contesting them in the courts. Dismayed but undeterred, supporters of reform, like the lawyers Maina Kiai and Gibson Kamau Kuria, called on 'Kenyans who cherish the truth, freedom and justice' to 'once again harness all their recourses to ensure that their country joins the community of democratic nations'[15]. The patience of Kenyans was being tested, however.

The life experience that has shaped the typical Kenyan citizen's understanding of conflict is similar to those in post-colonial nations that have succumbed to dictatorship. In the Kenyan

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[13] David Throup and Charles Hornsby, *Multiparty Politics in Kenya: The Kenyatta and Moi States and the triumph of the system in the 1992 election*, Oxford. 1998, p. 127.

[14] Wangari Maathai, 'Kenya … Down the road', *Finance*, 31 January 1993, p. 21.

[15] Gibson Kamau Kuria and maina Kiai, 'The struggle continues', *Finance* 31 January 1993, pp. 24-5.

context, this translates into the average citizen believing that the executive branch always wins, and that those in power will do whatever it takes to stay in power. This was seen with Kenyatta who was a Kikuyu and Kenya's first president who utilized his position to consolidate power by encouraging KANU members of parliament (MPs) to make significant ratifications to the constitution between 1964 and 1969, thus effectively create a dictatorship.

Upon Kenyatta's death in 1978, Moi from the Kalenjin tribe assumed the presidency through his constitutional right as Vice President, and was able to take advantage of the vast infrastructure of executive power Kenyatta had created. This was especially seen by Moi's ability to abolish the multiparty system through an amendment to the constitution in 1982, effectively making him head of both the executive branch and Parliament[16]. Even when the multiparty system reemerged in 1991, Moi was able to use his position to limit the opposition through intimidation as well as create votes through voting fraud in the elections of 1992 and 1997. For example in the 1992 election, there was an example of structural violence. Whereby it was estimated that around one million youth were not allowed to register to vote because they were denied the national identity cards needed to register[17].

The questions of how ethnicity, culture and identity shape peoples view in regards to conflict are very similar questions in the Kenyan context, and have their roots in their tribal identity. Within Kenya, there are five main tribes: Kikuyu (22%), Luhya (14%), Luo (13%), Kalenjin (12%), and Kamba (11%). The Kalenjin people are more of a compilation of smaller tribes, such as the Kipsigis, Marakwet, Nandi, Pokot, Endorois, Sabaot, Terik, Elgeyo and Turgen. The commonality that united Kalenjin in the early 1950's and made them one of the five main tribes was their common language. Political parties in Kenya typically fall under tribal lines, valuing

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[16] Mutua, M. (2008). *Kenya's quest for democracy: taming the leviathan*. London: Lynne Rienner Publishers.
[17] *Ibid*

ethnicity above political ideology and policy. This is due to the perception that the party offers the best hope for one within the tribe to assume power and then share state resources with tribal members[18.] The Kenyan culture is deeply tribal. The average person identifies with the tribe and values the tribe. In addition to this, Kenyans are an inherently agrarian society, meaning that land is very important. Indeed, the topic of land has been an acute issue in the majority of conflicts since Kenyan independence.

Politics in Kenya fall along tribal allegiances. Politically, the Kikuyus of the PNU opposed the Luo-Kalenjin-Luhya alliance that formed the ODM. This political dynamic was another facet in the ethnic tensions felt toward Kikuyus in the wake of the controversial 2007 election results[19.]

Looking at the conflict from this dimension, the fact that politics and tribal ethnicity are intimately connected in Kenya is a cultural phenomenon. Another cultural dynamic that was involved in the conflict is part of the African culture that values elders over its youth. This, combined with a culture of corruption, cronyism and patronage led to violent responses from the youth. While these separations are helpful for analysis, they are synthetic in that the material (land/money), relational (tribal) and cultural (corruption) are all inter-related.

At the center of the conflict is a culture of corruption that has its "roots" in a weak constitution that, over time, yielded an imbalance of power to the executive branch of government through dozens of amendments. This resulted in many injustices involving tribes, land and youth that had no legal recourse due to a weak judicial system. Arguably the most significant weakening of the judicial branch came during the Moi era when he ended judicial tenure by firing the judges who were challenging his policies.

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[18] Mutua, M. (2008). *Kenya's quest for democracy: taming the leviathan*. London: Lynne Rienner Publishers.
[19] Maupeu, H. (2008). Revisitng post-election violence. Lafargue, J. (Ed.). *The general elections in Kenya*, 2007. (pp. 187-223). Dar es Salaam: Mkuki na Nyota Publishers, Ltd.

In the last two decades that coincided with the introduction of multiparty politics in Kenya, sporadic incidences of violence have been experienced that have targeted certain ethnic groups. Starting in September 1991, organized bands of arsonists known as Kalenjin warriors unleashed terror on Luo, Luhyia, Kikuyu, and Kisii in the Rift Valley region. They targeted farms populated by these ethnic communities, looted and destroyed homes, drove away the occupants, and killed indiscriminately. The attackers were often dressed in informal uniforms; their faces marked with clay in the manner of initiation candidates, and were armed with traditional bows, arrows, and machetes. These violence results in displacement of thousands of people from their farms.

Another dimension worth noting is that attention soon shifted from the Rift Valley to Coast Province, Isolated incidents of violence had been witnessed in Coast earlier in the decade. The targets were, as elsewhere, the communities of migrants to the area, and the perpetrators were largely self-proclaimed representatives of the indigenous population of the province. Mijikenda militias had attacked Luo and Kamba residents in a small number of episodes around the 1992 election, but Coast had not witnessed violence on anything like the scale of the Rift Valley. In 1997, the violence was much greater, however.

The worst of it was centred on the town of Likoni and Kwale district the south. Around half a million people lived in the affected area. The population was made up of members of the Digo and Duruma ethnic groups, both parts of the larger Mijikenda community, as well as grants and their descendants drawn from the Kamba, Kikuyu, Luo and Luhya communities. Migration to Coast from upcountry areas Kenya pre-dated independence and colonialism, but post-colonial migration into Kwale and Likoni had placed particular strain on the social and political fabric of the area. Sustained inward migration to Kwale, for instance, had driven average annual

population increases of between 3 and 4 per cent throughout the 1960s and 1970s. Migrants, mainly Kamba from Eastern Province, took up places on large settlement schemes in the district. Others were attracted to the area to seek in the burgeoning Diani Beach resort or in Mombasa city itself. *All along the coastline, 'the issue* of land ownership has been *at the centre* of local politics', wrote Karuti Kanyinga.[20] But as well as the farmers and the labourers, migration included administrators and investors. Coastal communities were largely excluded from positions of power within the local administration and from the riches made by investors in the luxury hotels and resorts that sprang up among the mangroves and palm forests that line the beach. A pronounced sense of grievance therefore mounted among Digo and Duruma communities over the decades from 1963, leading them to ask 'the question that dogs so many citizens of the coast: Why are the Mijikenda so oppressed?'[21]

According to one local resident and migrant, by the 1990s 'the prevailing animosity' was that 'the upcountry people should return to their home-regions'.[22] Tension between local and migrant populations was visible in a variety of different forms. The influence of migrants over the local administration meant, many Mijikenda believed, that little consideration was being given to local, Muslim sensibilities and culture when decisions about the licensing of hotels, bars and other entertainment were being taken. 'The loud music from the bars is now in stiff competition with the Islamic call to prayers,' one Muslim resident complained.[23] Besides the issues of ethnicity and migration, such sentiments also pointed to the increased politicization of Kenya's Muslims. Despite making up around 20 per cent of the population, the mostly Sunni Muslim

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[20] Karuti Kanyinga*, Re-distribution from Above: The politics of land rights and squatting in Coastal Kenya*, Uppsala, 2000, p. 116.

[21] Janet McIntosh, *The Edge of Islam: power, personhood, and ethno religious boundaries on the Kenya Coast*, Durham, NC, 2009, p. 45.

[22] KHRC, *Kayas of Deprivation*, pp. 12-16.

[23] *Ibid.*, p.12.

community had exercised little political clout in the past. However, mobilization around revisions to family law led to greater engagement by Muslims in public debate in the 1980s. The Islamic Party of Kenya (IPK) was formed in 1992 in an effort to mobilize the Muslim vote (if such a thing could be said to have existed), but garnered little support. It was, in any case, undermined by divisions in Coast around ideas of migration and belonging. The IPK, with Moi's encouragement, came to be viewed as the party of Arab Muslims who had migrated to the coast at various periods, while the rival United Muslims of Africa association represented itself as the voice of indigenous African Islam in the province.

In 2001, 62 people died and scores were injured in clashes pitting the Kisii and Maasai along the Gucha Transmara border. More than 50 people died in a single week of fighting between the Pokomo and Wardei tribes in Tana River. Sporadic Ethnic Violence in Nairobi's Kibera slums, three days of clashes left 12 people dead and more than 50 houses razed to the ground in fights between tenants and landlords. Although the Kibera clashes were basically over rent, some observers have linked them to ethnic factions because the majority of the landlords are Nubians and Kikuyus, whereas the tenants are mainly Luos. In February 2002, another new form of political violence emerged in Nairobi where different political private armies aligned to individuals in different political parties clashed and killed more than 20 people in one night.

These violence across the country and especially in the Rift Valley and Coastal region is of particular significance because it was widely viewed as constituting a serious threat to the existence of a united Kenyan nation, the rule of law, and the institutions of private property, contract, and the market economy. The violence appeared senseless. People who had lived together for decades were suddenly killing each other. The true objectives of the attackers largely remain a matter of speculation. Even the identity of the attackers is puzzling. The label of ethnic

clashes is in itself somewhat paradoxical because the clashes did not involve significant numbers of any ethnic community up in arms against another ethnic community. Instead, most reports give the numbers of raiders in the hundreds, sometimes in the dozens. While the victims are from specific ethnic communities, the aggressors hardly qualify as an ethnic group. In many ways, the raids resemble Mueller's description of opportunistic depredation waged by small bands of criminals and thugs, often scarcely differentiable from ordinary crime.[24] Most ethnic clashes relate to party politics and land ownership occurred around the first and second multiparty elections in 1992 and 1997 particularly in the Rift Valley province.

In contrast to the elections of December, 2002; NARC was a formidable force. Each of the main ethnic groups and regions was represented in the coalition's leadership, with the exception of the Kalenjin, who remained in line behind KANU and Moi. The breadth and unity of the opposition movement convinced many that NARC represented an opportunity for real change, and the likelihood of victory dissuaded its leading members from breaking into competing factions. NARC demolished the weary cynicism many Kenyans felt towards their political system after a decade of democracy without change. 'Everywhere I went, I heard the same words,' Wainaina recalled. 'Roads. A new constitution. Taps. Water. Electricity. Education. The usual tribal chauvinism and crude political sycophancy vanished.'[25] Not even the terror attacks on a Mombasa hotel, which killed thirteen people, and the simultaneous attempt to shoot down an Israeli passenger jet on 28 November, could derail the campaign. Nor could the serious injuries sustained by Kibaki in a car accident in early December, after which Odinga run NARC's campaign in the final weeks running up to voting. The result of the election was overwhelming.

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[24] Mueller, S. D. 2011. "Dying to Win: Elections, Political Violence, and Institutional Decay in Kenya," *Journal of Contemporary African Studies*, 29, 1, pp. 99-117
[25]*Ibid.*

Kibaki won nearly two-thirds of the votes cast in the presidential election and NARC constituent parties took 132 of the 222 seats in parliament. There was no scope for KANU to dispute the results or for Moi to stage a last-ditch effort to hold on to power. For once, polling was relatively peaceful.

Once the results were announced, however, such matters were far from the minds of NARC's supporters. The hundreds of thousands of people who flocked to Uhuru Park on 30 December to witness Kibaki swearing-in were overjoyed at the result. Despite still being restricted to a wheelchair while he recovered from the injuries sustained in car crash, the new president addressed the crowd. He promised that he would not dash the hopes of the country, which saw NARC's victory as a national rebirth: 'NARC will never die as long as the original vision endures. It will grow stronger and coalesce into a single party that will become a beacon of hope not only to Kenyans but to the rest of Africa.'[26] Those watching the ceremony on televisions in homes and bars around the country were overjoyed. In Kericho, Joseph Odhiambo announced 'Our frustrations have come to an end.' In Kibaki's home town of Othaya, his supporters ceremonially smashed one of the ubiquitous portraits of Moi that hung in every place of work and every public building. Across the rest of the country, the old portraits of Moi were taken down quickly and replaced with the smiling face of the third president.[27]

Ruth Odari watched Kibaki's inauguration from her home in Kisumu. As she told *The Nation:* 'We have what we asked for. I would like to ask NARC to live up to the promise of providing free primary education and to revive the economy.'[28] Her wish was granted almost immediately, with an announcement of the abandonment of fees in state-run primary schools. When the new

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[26] William Ochieng', *The black man's Democracy; Kenya, the first five years after Moi, 2003-2007*, Kisumu, 2008, p. 20.

[27] 'Carnival mood after NARC boos takes over', T*he Nation,* 31 December 2002.

[28] *Ibid.*

school year began in January, primary schools were deluged with 1.3 million new pupils seeking to take advantage of free education. Although it led to overcrowded classrooms and greater strain on other school resources, the policy was very popular. The new government's energetic attempt to put right many of the problems it had inherited impressed commentators. 'We have been very encouraged by what we have seen in the last two months', Gary Quince, the head of the European Union's diplomatic mission in Nairobi, stated in March. Moribund marketing boards for agricultural produce and other state-run enterprises were re-invigorated as Moi's clients were shown the door and replaced by eager new appointees. 'The main theme of the new leadership is economic recovery and investment is key to that', the head of one local economic think-tank said. A wave of redundancies swept through the judiciary and senior ranks of the civil service in the name of anti-corruption. The anti-corruption campaigner and journalist John Githongo was appointed to head up the anti-corruption drive within the government. 'The government is more decent, capable and public minded,' argued Mwalimu Mati, a senior figure in the local office of Transparency International.[29] Beyond the sphere of formal politics, it also seemed that things really had changed. Under the new dispensation, the already vigorous press blossomed and cultural activities of all sorts soared. The non-profit sector experienced a boom, too. As one study of the sector put it in 2007, 'using anecdotal estimation, there are well over one million non-profits in Kenya'.[30] The extent of public debate of politics in a variety of settings and forms was unprecedented. The Institute for Education in Democracy, a Nairobi-based Organisation, argued that Kenyan politics were now built on 'solid democratic principles' and 'the democratic

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[29] Antony Morland, Sunny outlook for Kenyan Investment climate', *Agence France Presse*, 9 March 2003.
[30] Institute for Education in Democracy, *Enhancing the Electoral process in Kenya: A report on the transition general elections 2002*, Nairobi, 2003, pp. 3-4.

space has greatly expanded since 1997'.[31] The new cabinet bolstered NARC nationwide appeal. Each province and all major ethnic groups were represented by at least a cabinet minister. The near-universal support that the NARC government enjoyed in early 2003 soon showed signs of stress, however one thing, the health of the elderly president was a cause for concern. He was rumoured to have suffered strokes while in office, absent in public events for extended periods of time, and prone to slurring his way through speeches; it was not always clear who was running the country. The secrecy surrounding the death of the vice president, Michael Wamalwa, did not help either. He died in a London hospital in August 2003, most likely of an AIDS-related condition, but right up until his death Kenyans were assured that all was well. More seriously, opposition to the government first emerged in relation to anti-corruption measures. The forced resignations of civil servants and judges were regarded among Moi's Kalenjin as vindictive acts by a Kikuyu president. 'How are Kenyans expected to respect the government if it continues to undo good things of a legitimate government?' asked Musa Sirma, the MP for Eldama Ravine in the Rift Valley. 'We are demanding fairness in whatever is being done in this nation.'[32] The government soon gave other Kenyans good reason to doubt its competence and honesty. In Parselelo Kantai's acclaimed short story based on this moment in recent Kenyan political history, the metaphor of pungent fish is a recurring trope. By the end, 'the stench of rotting fish is everywhere now'.[33] The metaphor was apposite.

The more power sharing is built into an agreement, the more likely its chances of success. This has been partially validated by this research, but tan equal distribution of power allows for a

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[31] Joseph Ngure, 'Rift Valley MPS accuse Kibaki of favouritism', *The Nation*, 9 June 2003.
[32] Karuti Kanyinga, Winnie Mitullah and Sebastian Njagi, *The non-profit Sector in Kenya: Size, Scope and financing*, Institute for Development studies, University of Nairobi, 2007, p. 16.
[33] Parselelo Kantai, 'Comrade Lemma and the Black Jerusalem Boys' Band' in *Seventh Street Alchemy: A Selection of Writings from the Caine prize for African Writing* 2004, Johannesburg, 2005, p. 73.

more successful reform process[34]. The extent or degree of power sharing is an important variable in the success of these power-sharing agreements. This has proven to be of vital importance for example In Kenya, the decision to enforce the equal distribution of power within ministries as well as across cabinet worked to promote cooperation and undermine unilateralism within government. By contrast, weak power-sharing agreements such as the Zimbabwean agreement failed to adequately share power, instead it created parallel structures which worked independently and allowed ZANU-PF to marginalize its agreement partners within government and policy-making. The creation of a lop-sided agreement in the Zimbabwean case resulted in little reform and relative stagnancy within government as the parties constantly competes for dominance. The importance of creating a balanced, well-formulated agreement which accounts for all interests and creates incentives for cooperation cannot be overstated[35].

Stedman intended to bring a discussion of personal interests and the role of spoilers back into the debate on power sharing. Although his definition of spoilers was developed in conversation with the role of personal interests in undermining power sharing in contexts of violence, this concept still remains applicable.[36] This thesis underlines the vital role of political interests and culture in promoting or undermining reform efforts. In spite of initial disagreements between the parties, a long history of elite cohesion in Kenya has allowed for the achievement of substantial reforms and the relatively successful implementation of the Kenyan Accord. In spite of the success of a number of reforms, parties in Kenya have colluded to prevent meaningful progress in strategic areas such as land reform and addressing corruption and impunity. This is as a result of the widespread culpability of political actors in these areas. For instance, there has been a history of

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[34] Walter, B. 1997. "The Critical Barrier to Civil War", *International Organization*, 51, 3, pp. 335- 364
[35] Mehler, A. 2009. "Introduction: Power-Sharing in Africa," *Africa Spectrum*, 44, 3, pp. 2-10
[36] Stedman, S. J. 1997. "Spoiler Problems in Peace Processes", *in International Security*, 22, 2, pp. 5- 53

political polarization and a siege mentality in Zimbabwe amongst members of the ZANU-PF old guard have frustrated reform efforts which would serve to undercut their power and introduce possibilities for criminal prosecution. Additionally, the former opposition parties have been unable to capitalize on their strengths in parliament to make substantial changes to government policy. Sriram and Zahar theorized that the degree of third party engagement is an important factor in determining the success of power sharing agreements. This assertion has been validated by the analysis of power sharing especially in the Kenyan case. It is not only the degree but also the quality of engagement that has been a vital determinant of success.[37] For example in Kenya the mediator undertook innovative and reflexive strategies to level the playing field and create incentives for reform, the impact of SADC and South African mediation was less positive. The influence of Thabo Mbeki on the mediation of the Global Political Agreement and the relationship between the principals cast a long shadow over the process and allowed ZANU-PF hardliners the freedom to subvert change.

Power-sharing agreements will likely need to include a number of exit strategies such as protection from prosecution for hard-line elements within the old guard. The monitoring mechanism must also be independent of political interests and influence and pressure to conform must be consistently applied by all parties including the African Union. All that notwithstanding, it is important for the agreement to contain clear and enforceable timelines to transform the reform process from an inherently political to a more technical exercise. From this analysis, it is clear that these power sharing agreements are unlikely to fundamentally transform societies and their prevalent political cultures. In some ways they seem likely to have only delayed meaningful reform and reinforced a culture of impunity. It is necessary to reflect that a constitution is

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[37] Sriram, C & Zahar, M-J. 2009. "The Perils of Power Sharing: Africa and Beyond", in *Africa Spectrum*, 44, 3, pp. 11-39

unlikely to result in change if the political elite do not adopt a culture of constitutionalism. Political cultures prove to be extremely resistant to change, as the history of implementation in many countries has shown. It is important that civil society and regional and international actors collaborate to pull in one direction to prevent reneging and backsliding but effect substantial transformation.

Power sharing agreements are often seen as a betrayal of the popular will of the people and they create perverse incentives for incumbents to refuse to step down following a loss at the polls. They tend to reroute the channels of accountability and alter direct relationships between citizens and governments. However, in the context of widespread violence and loss of life, it is difficult to envisage other methods by which to mediate a return to stability. It is thus extremely important that mediators pay close attention to the political dynamics at play in the crisis-wracked country and use regional and international pressure effectively to negotiate an equitable arrangement to prevent stagnancy and Inflexibility in the resulting government. It is vital that guarantors are impartial mediators who are able to employ a balanced set of carrots and sticks to ensure compliance and reduce reneging. Kenyan mediation processes of a power –sharing highlighted a number of best practices that should be extended to future mediation efforts. The mediator and mediation team held the right balance of familiarity, moral integrity, international authority and legitimacy to be widely perceived as honest brokers in the process. The mediator then employed innovative strategies to reduce the process from a political to a technical exercise through employing the services of private mediation bodies. Pressure was consistently applied to the principals including having a meeting in the middle of no-where to facilitate signing of the agreements and also through mandating a civil society organization with the monitoring of the agreement and by using these reports to exert pressure for reform on specific bodies. The

monitoring and implementation processes were given additional impetus through both national conferences and regular internal implementation review meetings to oblige the principals and intransigent elements to commit to implementing the precepts of the agreement.

Elections on their own do not necessarily lay the foundation for stability. On the contrary, they can be a source of ethnic clashes. The practice of winner-takes-all electoral outcomes in a multiethnic and underdeveloped state where the government controls the bulk of resources makes winning an election a life and death issue. It is important that electoral systems are independent of political control. Ethnicity has become an issue in many African elections for because of a political power struggle that found it useful to fan passions to mobilize support. It was not an autonomous driver of Kenya's 2007 post-electoral violence, however. While Daniel Arap Moi's 25 years of governing through an ethnic minority–based patronage network did imprint group identity on Kenyan politics, there are many instances of cross-group cooperation. Most prominent were the formation of the Kenya African National Union by the Kikuyus and Luos in the 1960s to fight for independence and the creation of the National Rainbow Coalition to break the one-party stranglehold on power in 2002. Intergroup cooperation, in fact, is the norm rather than the exception. Intermarriage is common, and many of Kenya's youth, especially in urban areas, grew up identifying as Kenyans first, followed by ethnic affiliation. This is not to suggest that ethnically based tensions do not persist rather, that the postelection bloodshed in 2007–2008 was not an inevitable outburst of sectarian hatred.

CHAPTER FIVE: CONCLUSION AND RECOMMENDATIONS

This thesis presents a new perspective to electoral violence in Africa. It challenges the occurrence of electoral violence which has dominated nearly every African nation. The outcome of electoral contestation presents African Nations as largely unstable without considering that there are solutions to such outcomes that exist in the name of power-sharing. Although there are some scholars of African politics that have hinted or acknowledged the existence of stable political arrangements and practices, these scholars failed to elaborate the nature of these arrangements, especially why and how they emerge, gain and preserve stability in an otherwise volatile political and social context. This thesis sought to fill this gap. The major objective of the thesis was therefore to explore power sharing as a means of ending electoral conflicts in African nations by focusing specifically on electoral and or ethnic clashes in Kenya between 1990 and 2010. The study presents an exhaustive and systematic analysis of ethnic and electoral violence in Kenya, highlighting the historical context within which it has occurred and intervened. The thesis also presents explanations for power-sharing in ending electoral conflicts especially in Africa.

This thesis begins by providing an understanding of the concept of power-sharing. It examines the three models of power-sharing – the consociational, incentivist, and tri-polar models, based on a critical review of the works of scholars such as Arend Lijphart and Donald Horowitz. The three models of power-sharing addresses the question of the nature of the power being shared and defined the structure and processes of power-sharing. Having looked at the ethnic violence of the 1990s and also looked at the electoral violence of the 2007 in Kenya the study then proceeds to frame the consociation model of power-sharing to explain why it is an ideal method in ending electoral conflicts.

Drawing from the path dependence approach, the study proposes two analytical premises that explain the application of power-sharing model in ending electoral conflicts. The first premise is that there is a relationship between the causes of ethnic conflict and the factors that cause electoral violence, while the second premise is that power-sharing provides the context for dealing with electoral violence in an amicable way. Because power-sharing is framed as a means to achieve peaceful co-existence, common scenarios were analyzed in the politics of Kenya especially what took place in 2002 and 2013 elections. It has also been indicated that peaceful elections which are not violent tend to be realized whenever ethno-alliances are made towards the general elections due to the historical and political linkages that exist between the different ethnic entities. The interactions between these ethnic groups are shaped by historical struggles. As the analysis in this study demonstrates, power-sharing is not a partnership of equals. It operates based on a hierarchy of power among the different ethno-regional elite groups.

As was shown in the thesis, power-sharing follows a pattern in which the hierarchy of power among the ethno-regional elite groups is reflected particularly in political appointments. The tendency to reflect the hierarchy of power among the groups in political appointments poses a serious challenge to power-sharing in Africa. Many observers believe that power-sharing as it is being practiced in many African nations widens the "asymmetrical, oligarchic power" of the dominant groups.[1] This view has received the most vocal expression by the minority elite groups; with many individuals framing the hegemony of the dominant groups as "internal colonialism".[2] The reflection of inter-elite hierarchy of power in power-sharing is seen as a

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[1] Agbaje, Adigun. 1998. "The Ideology of Power-sharing: An Analysis of Content, Context and Intent", in Kunle, Amuwo; Adigun, Agbaje; Rotimi, Suberu and Georges, Herault (eds.) *Federalism and Political Restructuring in Nigeria*. Ibadan: Spectrum. P. 132

[2] Naanen, Ben 1995. "Oil-producing Minorities and the Restructuring of Nigerian Federalism: The Case of the Ogoni People", *Journal of Commonwealth and Comparative Politics* 33(1): 46-78.

strategy by the dominant elite groups, to maintain their leading position. This strategy also includes the cooptation of the elite groups that accept the prevailing sharing arrangement. The problem with this tendency is that it has made elite consensus on the modalities for power-sharing almost elusive. Instead, it promotes bitter struggles between elite coalitions, with the most influential coalition imposing its will on the other coalition(s). It is hard for power-sharing arrangements founded on deep-seated rivalry and sense of inequality to succeed. Instead, such arrangements are likely to fuel the existing adversarial elite relations and complicate political conflicts.

One major challenge to power-sharing relates to the democracy deficit inherent in power-sharing. In search of elite accommodation and in a bid to provide the context for power-sharing, the ruling elite have tended to converge under one or few national parties. Much of the activities of these parties and how national decisions are reached are shrouded in secrecy. Within the parties, the political elite are allowed maximum control over their localities, to the extent that these elite down-play popular participation in politics. Although it is often argued that this situation is inclined to reducing inter-group competition between the elite, the growing convergence of the elite in one or few national parties breeds one-partyism and eliminates opposition/alternative viewpoints.

Another major challenge to power-sharing is that it creates a dependency syndrome with groups looking up more to what they can receive from the national vault than what they can contribute. This syndrome reflects in the domination of the public discourse by debates over access to share of national resources rather than how expand the "wealth of the nation". The problem with conceiving politics merely as the struggle for a share of the "fruits of power" is that it is hard to determine how much more than nothing the marginal groups would be satisfied with, or how

much less than "all" would please the dominant groups.[3] The result is mutual and recurrent claims of marginalization by dominant and marginal groups as well as attempts by all groups to continually manipulate the modalities for power-sharing.

In spite of the above challenges, power-sharing has great possibilities in Africa. First, there is the belief in many quarters that a society as large and complex as most African Nations cannot be peacefully governed without some measure of inter-group consensus. Power-sharing features as the most acceptable modality for reaching elite consensus on how African states could be ruled. Because no elite group would tolerate being "out of power", there is the readiness by each group to collaborate with others for as long as it is assured of being "in power". For the dominant groups who are the main beneficiaries of the arrangements, there is a disposition to secure the system by neutralizing any opposition. This is why those in power are usually attentive to the grievances against power-sharing and often ready to pacify the aggrieved groups for example Zimbabwe and Kenya.

So what are the general implications from the above analysis? An investigation of power-sharing has shown that it makes sense to re-examine its complexity and not to make conclusions based on a few historical instances. As this study has illustrated, despite regime and constitutional changes, most elements of power-sharing are preserved and passed on from one regime or constitutional order to another. This shows that the structure has a strong grip on the agents who on the other hand manipulate the political structure to their best interests. Therefore, it is oversimplifying to perceive a regime marked by electoral conflicts because of some instances of political and institutional breakdowns. Following from the above, the concept of power-sharing has to be rethought. Rather than interpret the concept merely in terms of political appointments,

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[3] Nolutshungu, Sam 1990. "Fragments of a Democracy: Reflections on Class and Politics in Nigeria" *Third World Quarterly*, 12(1): 86-115.

the scope of the areas where power can be shared needs to be extended. This will help the analyst not to miss out key explanations for powersharing. As this study has shown, powersharing is enhanced if the elites are provided with many access points to the state through an expanded or multifaceted conception of power-sharing. This highlights the need for analysts and policy-makers to have a broader view of power-sharing. Unfortunately, in many African countries where power-sharing deals were reached, they were limited to building coalition governments and the sharing of executive power.[4] This may limit the durability of the arrangement since actors are restricted and allowed to pursue their multifaceted interests within one sphere – the political sphere. However, the creation of multiple accesses to power through an expansion of the scope of power-sharing enabled the arrangements to survive. An important avenue for further research is to compare many cases of power-sharing that have taken place in Africa such as the Democratic Republic of the Congo, Rwanda, Burundi, Nigeria and Kenya. Here it would be interesting to examine the kinds of outcomes that will be produced by the interaction of the socio-political context and power-sharing. It would be especially fruitful to analyze the extent to which the threats of and eventual outbreak of civil war impact on the conception and implementation of power-sharing. Again, a study of the political elite (their formation, circulation, and transformation) in these countries may also be empirically and theoretically relevant for understanding power-sharing in particular and African politics in general.

In a context where power sharing agreements have increasingly been proposed as a means to end violence and restore stability to crisis-wracked states in the aftermath of highly contested elections, it is fundamentally important to review the success of these arrangements and their propensity to encourage change within government and society. The great diversity of power

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[4] Lemarchand, Rene 2007. "Consociationalism and Power-sharing in Africa: Rwanda, Burundi, and the Democratic Republic of the Congo" *African Affairs*, 106(422): 1-20.

sharing agreements makes its study difficult. This has played out in this thesis, as there are substantial differences in the form that a power sharing agreement takes in every arrangement. It is vital to keep in mind that these agreements are the result of fire-engine diplomacy in which the immediate goal of reaching an agreement takes precedence over long-term issues and concrete structural changes to the nature of power relations. This research has argued that the success of the implementation of the power sharing arrangements in any given situation is largely determined by the agreement itself, the level and quality of engagement by mediators, regional and international forces and the interests of the parties to the agreement. These variables are considerably interlinked and interdependent as the behavior of political actors influences both the nature of the agreement and the constraints facing the guarantors of the agreement. In addition, stronger action undertaken by regional and international actors can help to determine the nature of the agreement and the constraints placed on the actions of domestic political actors. It is crucial that negotiators understand and attempt to anticipate the way in which each of these elements will play into the successful implementation of power sharing agreements. It is important that a process is undertaken to identify both best and worst practices in the mediation and facilitation of power sharing agreements to help fortify future agreements and increase the likelihood of success.

BIBLIOGRAPHY

Africa Watch, 1991. *Taking Liberties*, New York.

_____, 1993. Divide and Rule: *State-sponsored ethnic violence in Kenya*, New York.

African Rights, 1996. *Kenya shadow Justice*, London.

Agbaje A. 1998. "The Ideology of Power-sharing: An Analysis of Content, Context and Intent", in Kunle, Amuwo; Adigun, Agbaje; Rotimi, Suberu and Georges, Herault (eds.) Federalism and Political Restructuring in Nigeria. Ibadan: Spectrum.

Akinyemi B. Dele-Cole, P. and Ofonagoro W. 1979. *Readings on Federalism*. Lagos: Nigerian Institute of International Affairs.

Andeweg, R. 2000. "Consociational Democracy" *Annual Review Political Science*, 3:509-536.

Arend A. C., & Beck R. 1998. 'International law and the recourse to Force: Ashift in paradigms', in C. Ku and P. F. Diehl(ed), International Law: Classic and Contemporary Readings (Colorado: Lynne Rienner Publishers) pp. 30-50.

Ary, D., Jacobs L.C., & Razavieh, A. 2002. Introduction to research in education (6th ed.). Belmont: Wadsworth/Thomson Learning.

Azar E.E. and Haddad R.F. 1986."Lebanon: An Anomalous Conflict?" *Third World Quarterly 8, no. 4*.

Barasa L. 15 May 2010 'No team confident of referendum win', The *Nation*. Nairobi

_____ 'Vote for constitution, urge leaders', *The Nation*. Nairobi

Barry B. 1975. "Political Accommodation and Consociational Democracy" *British Journal of Political Science*, 5(4): 477-505.

Bennett A. and George A. 2005. *Case Studies and Theory Development in the Social Sciences*. Cambridge, MA: MIT Press.

Bii B. and Ngetich P. 6 January 2008. 'Raid on displaced families that shocked the world', *The Nation*. Nairobi

Bogaards M.2006. "Democracy and Power-sharing in Multinational States: Thematic Introduction" *International Journal on Multicultural Societies*, 8(2): 119-126.

Burns, A. C., & Bush, R. F. 2002. *Marketing research: Online research applications* (4th ed.). Prentice Hall, New Jersey.Cambridge University Press.

Büthe T. 2002. "Taking Temporality Seriously: Modeling History and the Use of Narratives as Evidence" *The American Political Science Review*, 96(3): 481-493.

Carl R and Brown, Andrew D. 2005. "Narrative, Organizations and Research" *International Journal of Management Reviews*, 7(3): 167–188.

Catholic Bishops of Kenya.1992. *A call to Justice, love and reconciliation*, Nairobi, , pp, 4-5; Catholic Church Kenya vertical file; *Herskovits Library,* Northwestern University.

Chabal P. and Daloz J-P. 1999. *Africa Works: Disorder as political instrument*, Oxford, Publishers.

Cheeseman, N. & Tendi, B-M. 2010. "Power-Sharing in Comparative Perspective: the dynamics of 'unity government' in Kenya and Zimbabwe", in *The Journal of Modern African Studies*, 48(2); pp. 203-29.

Cohen R, 14 August 2008. *'How Kofi Annan Rescued Kenya'*, New York review of Books.

European Union election Observer Mission, Kenya. 2008. *Final report general elections 27 December 2007*, Brussels.

Gatabaki N. October 1991. 'Peace: interview – the Most Rev. Manasses Kuria', *Finance.*

Hartzell C. and Hoddie M. 2003. "Institutionalizing Peace: Power-sharing and Post-civil War Conflict Management" *American Journal of Political Science*, 47(2): 318-332.

_____ 2005. "Power Sharing in Peace Settlements: Initiating the transition from civil war", in P. Roeder & D. Rothchild (eds.), *Sustainable Peace: Power and Democracy after Civil War* New York: Cornell University Press.

Hedstroem P. and Swedberg R. 1998. *Social Mechanisms: An Analytical Approach to Social Theory*. Cambridge: Cambridge University Press.

Hornsby C. Election day and the results' in M. Rutten, A. Mazrui and F. Grignon(eds), *Out for the count*.

Horowitz D. 1985. *Ethnic Groups in Conflict*. Berkeley: University of California Press.

_____. 1991. *A Democratic South Africa? Constitutional Engineering in a Divided Society*. Berkeley: University of California Press.

_____. 2002. "Constitutional Design: Proposals Versus Processes" in A. Reynolds (ed) *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy*. Oxford: Oxford University Press.

Human Rights Watch. 2002. *playing with fire: Weapons proliferation, political violence, and human rights in Kenya*, New York.

_____. 2008. 'all the Men Have gone': *War crimes in Kenya's Mt. Elgon conflict*, New York.

Institute for Education in Democracy. 2003. *Enhancing the Electoral process in Kenya: A report on the transition general elections 2002*, Nairobi.

International commission of Jurists (Kenya Chapter) (ICJ-K), 2000*The political Economy of Ethnic Clashes in Kenya*, Nairobi.

International Republican Institute. December 2007. '*Preliminary findings of IRI's international election observation missions*', Press release.

Jarstad, A K. 2009. "the Prevalence of Power-Sharing: Exploring the Patterns of Post-Election Peace," *Africa Spectrum* 44(3).

Kahora B. 2008. 'The fire next time or a half-made place: Between Tetra Paks and Plastic bags', *Kwani?,* 5(2) pp. 8-12.

Kaiser J. 2003. *If I die*, Nairobi.

Kantai P. 2005. 'Comrade Lemma and the Black Jerusalem Boys' Band' in *Seventh Street Alchemy: A Selection of Writings from the Caine prize for African Writing* 2004, Johannesburg.

_____ and Smith P. June/July 2008. Kenya: 'No country for young men', *Africa Report*, Nairobi.

_____. April/May 2009. 'African "deal democracy" on trial', *Africa report*, Nairobi.

Kanyinga K. 2000. *Re-distribution from Above: The politics of land rights and squatting in Coastal Kenya*, Uppsala.

_____., Mitullah W. and Njagi S. 2007. *The non-profit Sector in Kenya: Size, Scope and financing*, Institute for Development studies, University of Nairobi.

Karume N. 2009. *Beyond Expectations, From charcoal to gold*, Nairobi.

Kenya Human Rights Commission, 1997. *Kayas of Deprivation*; Kayas of blood, violence, ethnicity and the state in coastal Kenya, Nairobi.

Kenya National Assembly. 1992. *report of the parliamentary select committee to investigate Ethnic Clashes in Western and other parts of Kenya*, Nairobi.

Kenyans for peace Truth and Justice. 2009. 'Unfinished business from Krieglers's IREC', *Wajibu*, 24(1). Nairobi.

Kloop J. 2000.'Pilfering the public; The problem of Land grabbing in contemporary Kenya' *AfricaToday*, 47(1) pp. 7-26

Kombo, K. D., & Tromp, A. L. D. 2006. *Proposal and thesis writing*. Nairobi, Kenya: Paulines Publications Africa.

Kothari, C. R. 2004. *Research methodology*. New Delhi, India: New Age International Publishers.

Kuria G.K. and Kiai M. 31 January 1993. 'The struggle continues', *Finance*.

Lemarchand R. 2007. "Consociationalism and Power-sharing in Africa: Rwanda, Burundi, and the Democratic Republic of the Congo" African Affairs, 106(422): 1-20.

LeVan, A. C. 2011. "Power Sharing and Inclusive Politics in Africa's Uncertain Democracies", in *Governance: An International Journal of Policy, A Marriage of Inconvenience: Comparing the Implementation of the Kenyan and Zimbabwean Power Sharing Agreements Administration, and Institutions*, 24, 1;

Lewis, A. 1965. *Politics in West Africa*, London: Oxford University Press.

Lijphart, A. 1969. "Consociational Democracy", *World Politics* 21(2):207-225. 223

_____. 1977. *Democracy in Plural Societies: A Comparative Exploration*. New Haven, CT: Yale University Press.

_____. 1979. "Consociation and Federation: Conceptual and Empirical Links" *Canadian Journal of Political Science*, 12(3):499-515.

_____. 1991. "Power-Sharing Approach", in J.V. Montville (ed) *Conflict and Peacemaking in Multiethnic Societies*. New York: Lexington Books.

_____. 1999. *Patterns of Democracy: Government Forms and Performances in Thirty-Six Countries*. New Haven: Yale University Press

Lijphart, A. 2002. "The Wave of Power-sharing Democracy", in A. Reynolds (ed) *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy*. Oxford: Oxford University Press.

Lustick I. 1997. "Lijphart, Lakatos, and Consociationalism" *World Politics*, 50(1): 88-117.

_____.1979. "Stability in Deeply Divided Societies: Consociationalism versus Control" *World Politics*, 31(3):325-344.

Maathai W. January 1993. 'Kenya … Down the road', *Finance*.

Maina W. and Mburu C. August 1991. 'the Forum for Restoration of Democracy in Kenya' *Nairobi Law Monthly*.

Makokha K. and Orlale R.O. 2009. *In the Shadow of death: My trauma, my experiences, voices of Kenyan women from post-election violence*, Nairobi.

March 1999 'Lotodo on Cattle rustling', *Update on Peace and Reconciliation*.

Matiba K. 1992. *A dream for Kenya*, Nairobi.

Matlosa K., Khadiagala G. and Shake V. (eds.) "Violence in Africa," in *When Elephants Fight: Preventing and Resolving Election-Related Conflicts in Africa*, (Johannesburg: EISA).

Maupeu, H. 2008. *Revisitng post-election violence*. Lafargue, J. (Ed.). *The general elections in Kenya, 2007*. (pp. 187-223). Dar es Salaam: Mkuki na Nyota Publishers, Ltd.

McGarry, J. and O'Leary B. 2006. "Consociational Theory, Northern Ireland's Conflict, and its Agreement: What Consociationalists can Learn from Northern Ireland" *Government and Opposition*, 41(1): 43-63.

McIntosh J. 2009. *The Edge of Islam: power, personhood, and ethno religious boundaries on the Kenya Coast*, Durham, NC.

Mehler, A. 2008. "Not Always in the People's Interest: Power-Sharing Arrangements in African.

_____. 2009. "Introduction: Power-Sharing in Africa," Africa Spectrum, 44, 3.

_____ 2009. "Peace and Power Sharing in Africa: a not so obvious relationship", in *African Affairs*, 108, 432.

Miles M.B. and Huberman M. A. 1984. "Drawing Valid Meaning from Qualitative Data: Toward a Shared Craft" *Educational Researcher*, 13: 20-30.

Morland A. 9 March 2003., Sunny outlook for Kenyan Investment climate', Agence France Presse.

Mueller, S. D. 2011. "Dying to Win: Elections, Political Violence, and Institutional Decay in Kenya," *Journal of Contemporary African Studies*, 29, 1, pp. 99-117

Mugenda, G. A., & Mugenda, O. 1999. Research methods: Quantitative and qualitative approaches. Nairobi, Kenya: ACTS.

Mukherjee, B. 2006. "Why Political Power-Sharing Agreements Lead to Enduring Peaceful Resolution of Some Civil Wars but not Others?" *International Studies Quarterly*, 50, pp. 479-504

Murshed, S. 2008. "Inequality, Indivisibility and Insecurity" in S Saideman & M-J Zahar (eds.), Intrastate Conflict, Governments and Security: dilemmas of deterrence and assurance, London: Routledge

Murungi K. 1992. 'Kenya's dirty war against multiparty democracy', *Nairobi Law Monthly*, January.

Mutua, M. 2008. Kenya's quest for democracy: *taming the leviathan*, Boulder, CO.

Mutunga W. 1999. *Constitution-making from the Middle: Civil society and transition politics in Kenya1992-1997*, Nairobi.

Naanen B. 1995. "Oil-producing Minorities and the Restructuring of Nigerian Federalism: The Case of the Ogoni People", Journal of Commonwealth and Comparative Politics 33(1): 46-78.

National Council of Churches of Kenya (NCCK), 1991. Nairobi Demolitions: *What Next?* Nairobi.

_____ 1992. the cursed Arrow: *contemporary report on the politicized violence in the rift valey, Nyanza and Werstern provinces, vol. 1*, Nairobi.

National Council of Churches of Kenya/Netherlands Development Corporation/Semi-Arid Rural Development Programme. 2002. *Pacifying the Valley; An analysis on the Kerio Valley Conflict*, Nairobi.

National Election Monitoring Unit(NEMU), 1993. *courting Disaster: A report on the continuing terror, violence and destruction in the rift valley, Nyanza and western Provinces of Kenya,* Nairobi.

Ngure J. 9 June 2003. 'Rift Valley MPs accuse Kibaki of favouritism', *The Nation*. Nairobi

Njogu K. 2009. (ed.), *Healing the wound: Personal narratives about the 2007 post-election violence in Kenya*, Nairobi.

Nolutshungu S. 1990. "Fragments of a Democracy: Reflections on Class and Politics in Nigeria" Third World Quarterly, 12(1): 86-115.

Ochieng' W. 2008. *The black man's Democracy; Kenya, the first five years after Moi, 2003-2007*, Kisumu.

Office of the Vice president and Ministry of Planning and National Development, 1994. *Nakuru District Development plan 1994-1996*, Nairobi.

_____. *Nandi District Development plan 1994-1996,* Nairobi.

_____ *Uasin Gishu District Development plan 1994-1996*, Nairobi.

_____ *Narok district development plan 1994 – 1996,* Nairobi.

Patterson, Molly and Monroe, Kristen R. 1998. "Narrative in Political Science" *Annual Review of Political Science*, 1: 315-331.

Rea L. M. & Parker A. R. 2005. Designing *and conducting survey research: A comprehensive guide* (3rd ed.), San Francisco: Jossey-Bass Publishers.

Rebublic of Kenya, 2002. Report of the Commission of Inquiry into the land law system of Kenya on principles of National land policy framework, *Constitutional position of Land and new Institutional Framework of Land Administration*, Nairobi.

_____ 2008 report of the *Commission of Inquiry into the post-election Violence Report*, Nairobi.

_____ 1999. *Comments by the Government on the Report of the Judicial Commission Appointed to Inquire into Tribal Clashes in Kenya (Akiwumi Report)*, Nairobi.

Rogge J. 1993. The internally Displaced Population in Kenya, Western, and Rift Valley provinces: *A need assessment and a program proposal for rehabilitation*, Nairobi.

Sriram, C & Zahar, M-J. 2009. "The Perils of Power Sharing: Africa and Beyond", in *Africa Spectrum*, 44, 3, pp. 11-39

Stedman, S. J. 1997. "Spoiler Problems in Peace Processes", in International Security, 22, 2, pp. 5- 53

Taylor R. 2009. *Consociational Theory: McGarry & O'Leary and the Northern Ireland Conflict*. London: Routledge,

Throup D. and Hornsby C. 1998. *Multiparty Politics in Kenya: The Kenyatta and Moi States and the triumph of the system in the 1992 election*, Oxford.

Walter B. 1997. "The Critical Barrier to Civil War", *International Organization*.

Wanyeki M.19 October 2008. Hats off to Waki and His team', *The East African*. Nairobi.

Wanzala O. 15 April 2010. 'Draft "violates rights of some religious groups", *The Nation*. Nairobi.

Wilson R. February 1971. 'the economic implications of land registration in Kenya's smallholder areas', *staff paper no. 91, Institute for Development Studies*, University of Nairobi.

Zaelke D, et al, 2005. 'Making Law Work', Environmental Compliance & Sustainable Development, Vol 1, pp. 58-63.