

The impact of Coalition Government on political, economic and social development of post-conflict societies: Case of Kenya, 2008-2012

By

KISOBO Jimmy Juma
R50/69349/2011
Mobile 0722878165
Email: jkisobo@yahoo.com

Research project submitted in partial fulfillment for the Degree of Master in International Conflict Management, the Institute of Diplomacy and International Studies, University of Nairobi

November, 2013

Supervisor
Prof. Maria Nzomo

DECLARATION OF ORIGINALITY

I, the undersigned declare that this is my original work that has not been submitted for any other degree in any other university:

Signed:.....

Date:.....

Kisobo, J. Jimmy.

Registration Number R50/69349/2011

This research project has been submitted with my approval as the university supervisor:

Signed.....

Date.....

Prof. Maria Nzomo.

DEDICATION

I dedicate this research to my loving family and in memory of my late wife Cynthia Nelima and son Bernice. They encouraged and pestered me throughout the period of study. To them I say:

As with flowers, so with men

They blossom, bloom and wither away

But there are some who always

Leave a fragrance behind

In them you belong.

ACKNOWLEDGMENTS

This research project marks the culmination of a two year academic process mingled with enriching and transforming life experiences. Hence no better opportunity than now to thank all those who helped me to successfully complete my studies as well as those who have helped me in writing. First, my sincere gratitude goes to the Director, Directorate of Criminal Investigations for allowing me to further my studies. I would like to thank my supervisor Prof. Maria Nzomo who availed herself with guidance and comments, and was always ready to listen to my ideas. Additionally, my gratitude goes also to my spouses and children whose time I sacrificed to make this a reality. Lastly, I owe an enormous amount of gratitude to my immediate in charge Maalim Abubakar Issack, who upon observing how much I was struggling to balance between official work and academic studies would ensure a considerable reduction of workload. God bless you all abundantly.

LIST OF ABBREVIATIONS

CDF	Constituency Development Fund
COMESA	Common Market for Eastern and Southern Africa
DRC	Democratic Republic of Congo
EAC	East Africa Community
ECK	Electoral Commission of Kenya
FDI	Foreign Direct Investments
GDP	Gross Domestic Product
HDI	Human Development Index
ICC	International Criminal Court
IEBC	Independent Electoral and Boundaries Commission
IGAD	Inter-Governmental Authority on Development
KADU	Kenya African Democratic Union
KANU	Kenya African National Union
KNDR	Kenya National Dialogue and Reconciliation
MRC	Mombasa Republican Council
NARC	National Rainbow Coalition
NEPAD	New Partnership for Africa's Development
ODM	Orange Democratic Movement
ODM-K	Orange Democratic Movement - Kenya
PNU	Party of National Unity
RUF	Revolutionary United Front
UN	United Nations

UNDP	United Nations Development Programme
UNITA	National Union for Total Liberation of Angola
US	United States

TABLE OF CONTENTS:

Declaration.....	i
Dedication.....	ii
Acknowledgement.....	iii
Table of Contents.....	iv
Abstract.....	x

CHAPTER ONE: INTRODUCTION

1.1 Background of Study.....	1
1.2 Statement of the Problem.....	5
1.3 Objectives of the Study.....	7
1.4 Literature Review.....	8
1.4.1 Consociation and Coalition Formation.....	10
1.4.2 Models of Coalition Governments.....	15
1.4.3 Classical Coalition Governments.....	16
1.4.4 Consociational Coalition Governments.....	18
1.5 Justification of the Study.....	19
1.6 Conceptual Framework.....	19
1.7 Hypotheses.....	26
1.8 Research Methodology.....	26
1.8.1 Sampling Procedure.....	27
1.8.2 Data Collection Instruments.....	28
1.9 Chapter Outline.....	28

CHAPTER TWO: HISTORICAL ASPECTS OF COALITION GOVERNMENT

2.1 Introduction.....	29
2.2 Historical Aspects of Coalition Government.....	29
2.3 Coalition Government, Political Stability, and Socio-Economic Development.....	33
2.3.1 History of Coalitions in Independent Kenya.....	33
2.3.2 Coalition Government and Economic Development.....	34
2.3.3 Coalition Government and Social Development.....	37
2.3.4 Coalition Government and Democratic Governance.....	39
2.4 Transitions from Oppressive to Democratic Regime/Ethnic Violence to Peace.....	42
2.5 Disputed Election Results and Coalition Governments.....	44
2.6 Conclusion.....	45

CHAPTER THREE: KENYA’S COALITION GOVERNMENT OF 2008-2012: A CASE STUDY

3.1 Introduction.....	46
3.2 Kenya’s 2007 Election.....	46
3.2.1 Sources of Violence in Kenya.....	48
3.2.2 Power-Sharing in Kenya.....	51
3.3 The National Accord and Implementation.....	53
3.3.1 Short –term Stability.....	56
3.3.2 Long-term Stability Issues.....	57
3.4 Consociational and Centripetal Elements in the 2010 Constitution of Kenya.....	61
3.4.1 Consociational Elements.....	62
3.4.2 Centripetal Elements.....	67

3.5. The Implementation of the Constitution.....	68
3.6 Kenya’s Regional and International Relations.....	71
3.7 Impacts of Coalition Government in Kenya.....	74
3.8 Conclusion.....	79

CHAPTER FOUR: ANALYSIS AND DISCUSSION OF EMERGING ISSUES

4.1 Introduction.....	82
4.2 Primary Data Presentation and Discussion	82
4.2.1 Approach of Resolving 2008 Crisis.....	83
4.2.2 Extent of Democracy in Kenya.....	84
4.2.3 Support for Elections in Kenya.....	87
4.2.4 Resource Allocation.....	88
4.3 Political Development.....	91
4.4 Economic Development.....	91
4.5 Reinstating political stability.....	93
4.6 Threats to the ‘Agreement on the Principles of Partnership of the Coalition Government’....	95

CHAPTER FIVE: CONCLUSION AND RECOMMENDATION

5.1 Introduction.....	99
5.2 Conclusions.....	99
5.3 Recommendation.....	101

REFERENCES.....	103
------------------------	------------

APPENDIX I: INTRODUCTORY LETTER.....	111
---	------------

APPENDIX II: INTERVIEW SCHEDULE.....	112
---	------------

APPENDIX III: PROJECT IMPLEMENTATION SCHEDULE.....	119
---	------------

APPENDIX IV: BUDGET.....120

ABSTRACT

The search for a solution to the post-election violence which followed the disputed presidential elections of 2007 in Kenya led to the signing of the ‘Agreement on the Principles of Partnership of the Coalition Government’. This, in turn, led to the enactment of the National Accord and Reconciliation Act 2008 as the roadmap for ending the political crisis. Under this peace agreement a Coalition Government comprising a “peace cabinet” of 40 ministers and 50 assistant ministers was formed. It ushered in, for the first time, the executive power sharing at elite level.

This research analyses the impacts of this Coalition Government on the socio-political and socio-economic development with a view to establishing its contribution to sustainable peace and democracy to post-conflict societies. Specifically, the study set out to establish the relationship between the Coalition Government and political stability, economic and social development, determine its effectiveness in governance and visualize what it can contribute to subsequent peaceful elections.

The research finds that Coalition Government restored and guaranteed political stability as the cornerstone of economic and social development. It restored democratic governance and achieved both the short-term and long-term measures, first by stopping the violence, settling the internally displaced persons and secondly by addressing the long standing reform agendas set out in the Kenya National Dialogue and Reconciliation. Besides, the research also finds that the positive effects have not been felt due to the challenges impeding the operations of the Coalition Government. This includes justice issues, economic inequalities and the tendency towards dictatorship of the majority that has enhanced the regional ethnic based cleavages.

CHAPTER ONE

INTRODUCTION

1.1. Background of the Study

In Africa since 1960s, prolonged and protracted ethnic-related violent political conflicts have occurred and caused political instability in Angola, Burundi, Chad, Cote d'Ivoire, Ethiopia, Nigeria, Rwanda, Sierra Leone, Uganda, Zambia, Kenya and Zimbabwe among others. In Angola, the National Union for the Total Liberation of Angola (UNITA) returned to war, which lasted almost a decade, after disputing the 1992 election results. In Rwanda, Burundi, and Cote d'Ivoire, widespread conflicts were preceded by disputes over the electoral process and results thereof.¹ In Nigeria, electoral violence left 100 people killed and many injured in the 2003 elections,² a situation replicated in the 2007 elections.³ In regard to Sierra Leone, the ballot box remains the country's reminder of the 10 years of civil war that triggered the Revolutionary United Front (RUF) rebel forces to engage in chopping off the hands of hundreds of the country's registered voters as a way of preventing them from voting in what was dubbed 'Operation Stop Elections'.⁴ Elections in Uganda, Ethiopia, Chad, Zambia, Kenya and Zimbabwe have also been disputed and marred by violence.

Kenya is in the third decade since it had a single-party government emerging from a general election with a majority of its own. This has been occasioned by a transformation from one-party to a competitive multi-party system. The system has effectively dwindled chances of electing a single-party government to create an era of minority or coalition government rule that since 1992 introduced high volatility and instability in the country. The volatility revolves around the

¹ S. M. Atuobi, Election-related violence in Africa, *ACCORD – Conflict Trends*, Vol.1, (2008), pp. 10, 14.

² Human Rights Watch Nigeria's 2003 elections: the unacknowledged violence (2004) 1.

³ O.B.C. Nwolise, Electoral violence and Nigeria's 2007 elections, *Journal of African Elections*, 6(2), 2007.

⁴ Witness to truth: Report of the Sierra Leone Truth and Reconciliation Commission, volume 3A (2004) p. 473.

challenges encountered in crafting representative public institutions on a social foundation perceived to be a solution for alleviating deep-seated ethnic rivalries and economic inequalities that have existed since independence.

A general pattern as is reflected in the sampled countries above tends to show that in countries where the political leadership remains largely in support of status quo, the alternative for reforming the system lies in use of violence at every available opportunity to transition. In Kenya, the peaceful transition was hampered by ethnic hostility, party system; history of violence associated with elections⁵ and as Marisa would argue the lack of necessary and favorable conditions for a power-sharing agreement to thrive, especially the lack of a strong moderate and committed leadership, the motivation to accommodate others and a shared destiny.⁶ Due to the absence of these conditions, the events of 2008 did not come as a surprise to the international system, but relatively as an episodic situation anticipated.

Common practice in history has shown that, as people come together in a political community, the supreme authority (government) they establish is either entrusted in the hands of one, a few or many who govern with a view to the common interest. According to Aristotle, the government where one rules is a kingship, where the few rule is an aristocracy and where many administer is a constitution.⁷ These forms of government have over time been changed into tyranny, oligarchy and democracy as respective distortions.⁸ The effect of such distortions is the negation of the purposes for which the state exists, i.e. for citizens to cooperate and be secure from injustice; and for exchange and mutual association which proceeds from the people

⁵ Jeremy Horowitz, "Power-sharing in Kenya: Power-sharing Agreements, Negotiations and Peace Processes", Center for the Study of Civil War, Oslo (CSCW), 2008, p. 2.

⁶ Marisa Traniello, "Power-Sharing: Lessons from South Africa and Rwanda", International Public Policy Review, Vol.3, No.2, March 2008, p. 2.

⁷ Aristotle (384-321 B.C.), in Stephen Everson (ed.), *The Politics*, New York: Cambridge University Press, 1988, p. 61.

⁸ Ibid.

(families), territory and government as components of the state. Paine's quest to understand these concepts led him to find that some writers confound society with government.⁹ To him, the two are not only different but have different origins. Society is produced by human wants and government by human wickedness; society promotes positively happiness by uniting human affections while government negatively promotes happiness by restraining human vices; and society is a blessing but government, even at its best, is a necessary evil.¹⁰ It is worth noting that for a political community to realize the common good it has to be stable and therefore, political stability is an atmosphere in which there are no tensions among the good and rational citizens as they go about searching for their happiness.

Most studies on political instability largely focus on election violence as antecedents to coalition government formation and fail to highlight the effects such governments have on reversing conflictual situations. In democratic plural societies, studies and common practice have shown that majority rules but majoritarian rule leads to minority exclusion from power which becomes a recipe for civil strife. Many studies that have ventured in seeking for an alternative to majority rule concur that power-sharing is the way to go.¹¹ Besides, in a study on democracy and democratization process as an approach to peace building,¹² it has been shown that democracy and democratization is not viable where economic inequalities exist and is also discriminatory to the minority. Bruce postulates that if politics in a democracy is seen as a non-zero-sum enterprise, the winners would be restrained from crushing the losers and the elite made to

⁹ Thomas Paine, *Common Sense*, 1776 in N. Gangulee (ed.), *Thomas Paine Selected Writings*, London: Nicholson & Watson Ltd., 1948, p. 69.

¹⁰ Ibid

¹¹ Donald Rothchild, *Managing Ethnic Conflict in Africa*, Washington, DC: Brookings Institute Press, 1997, p. 3 and Pippa Norris, *Driving Democracy: Do Power-Sharing Institutions Work?* (New York: Cambridge University Press, 2008), p.23.

¹² R. Paris, *Peacebuilding and the Limits of Liberal Internationalism*, *International Security*, Vol.22 (2), (1997), pp. 54-89.

cooperate for all to gain.¹³ This has the potential to lead to stability. These empirical and theoretical study findings and conclusions point to one overarching assumption that society is likely never to be free from conflict because it seems obvious that “human societies are made from conflictive interaction.”¹⁴

Another feature has been the decline in traditional interstate conflicts and an upsurge in internal conflicts such as civil wars or ethnic conflicts.¹⁵ This has made it necessary for the growing and rich literature in the field of conflict studies to envision the process by which conflicts can be managed as opposed to their avoidance. Interventions in conflict may take place at international, regional or sub-regional levels. However, serious challenges in dealing with internal conflicts exist. First they have proven to be difficult to resolve and secondly, there is lack of clarity as to which institution is responsible. During Cold War, for example, the divisions of labor among the sub-regional, regional and international organizations were clear. While the traditional role of United Nations (UN) was to mount peacekeeping operations and to deploy political missions, regional and sub-regional organizations concentrated largely on preventive diplomacy.¹⁶ The basic logic of preventive diplomacy being to: act early so as to prevent disputes from escalating or problems from worsening; reduce tensions which if allowed to intensify could lead to war; or deal with today's conflicts before they become tomorrow's crises.¹⁷ However, the track record of preventive diplomacy in the post-cold war era has not been encouraging and the

¹³ Bruce Russett, “The Facts of Democratic Peace”, in: Michael E. Brown, Sean M. Lynn-Jones and Steven E. Miller, *Debating the Democratic Peace*, (London: The Mit Press, 1996) p. 82.

¹⁴ M. Castells, *The Information Age: Economy, society, and culture (Vols.1-3)*, Oxford: *Blackwell & International Journal of Communication* 5 (2011) A Network Theory of Power, p. 779.

¹⁵ Chester Crocker. 1996. "Lessons on Intervention," in *Managing Conflict in the Post-Cold War World: The Role of Intervention*. Report of the Aspen Institute Conference, August 2-6, 1995, (Aspen, Colorado: Aspen Institute. pp.77-88.

¹⁶ Article 24 of the UN Charter confers on the Security Council the primary responsibility... "to maintain international peace and security, and to this end: to take effective collective measures for the prevention and removal of threats to peace, and for the suppression of acts of aggression or other breaches of peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or solutions which might lead to the breach of peace."

¹⁷ B. Jentleson, *Preventive Diplomacy in Post-Cold War World*. (New York: W.W. Norton, 2000), p. 1.

continued confusion in role sharing among different institutions has led to unequal burden-sharing among member countries to the extent that some conflicts are excluded from international treatment.¹⁸ Attempts made to end these internal conflicts, have largely been solutions suggested and agreed upon by parties through mediation processes which usually are riddled with some parties determination to snub negotiations, unwillingness to reach a settlement or violations of the terms of peace agreements.¹⁹ These circumstances provoke the need to examine the impacts that may come with coalition governments in the socio-political and socio-economic life with a focus on Kenya between 2008 and 2012.

1.2. Statement of Research Problem

Kenya would have enhanced her political stability during the 1991 – 2007 phase of transition to a democratic state had the political leadership remained focused on the change in governance structure as demanded by majority of Kenyans. But the lack of committed leadership to bring about needed change made the country go into the 2007 polls severely polarized from ethnic tensions occasioned by economic inequalities, exclusion from power and poor living standards. The opposition united for the first time in 2002 and as a result, won the election to end one party political control under the Kenya African National Union (KANU) of close to forty years. This achievement restored hope among many Kenyans for a new beginning to heal and unite the country from past injustices as “drivers” of the conflict.

Majority of Kenyans, while supporting the opposition on their promises, were convinced that the opposition was going to end tribalism in the country as an impediment towards achieving equity and uplift their living standards. This, however, was not to be as the survey conducted by

¹⁸ C. A. Crocker, et al, *Towards a Concept of Collective Conflict Management*, The United States Institute of Peace (unpublished), p.3.

¹⁹ Nathan Laurie, 'When push comes to shove' The failure of international mediation in African civil wars. *Track Two* Vol. 8 No. 2, November 1999, CCR, Cape Town, p.1.

the Steadman Group²⁰ (n=2,718), two months to the 2007 election, found that majority (57%) of Kenyans thought the coalition government served the interests of certain ethnic groups at the expense of others. Respondents views on the question of whether coalition government served the interests of all ethnic groups showed the height of polarization, with members from Kikuyu community indicating the government treated all groups equally while most members from other large ethnic groups, particularly the Luo and the Kalenjin indicated the opposite.

The violence associated with elections of 1992, 1997 and the 2007 have had impacts on the political stability, economic and social development of the country. For example, there has been loss of lives, displacement of people and destruction of property. Majority of Kenyans who felt excluded from state power, marginalized economically and leading a life below living standards believed that changing the constitution to newly engineer public institutions was their only surest way to address these plights, but every effort towards realizing this goal was blocked by successive governments. The 2008 post-election violence presented the “ripe moment” when Kofi Annan led a panel of eminent African personalities to broker the end of violence, in a power-sharing deal that created yet another coalition government as an approach for managing the conflict. This is done in a framework of coalition government in which power-sharing practices governs divided societies. It is known to succeed and fail, i.e. in South Africa and Rwanda respectively in 1994 and now 14 years later in Kenya for restoring stability that is crucial in achieving economic and social development as a means of mitigating future political violence.

The period 2008-2012 has witnessed Kenya’s political conflict management hinge on engineering of institutions to ensure state stability during her delayed transition to democracy.

²⁰ Data comes from a survey conducted by the Steadman Group from March 28 – April 2, 2009. The sample size was 2,718.

They have included the promulgation of a new constitution, reforms in the judiciary, electoral system and the setting up of the Truth, Justice and Reconciliation Commission to expose, heal and bring a closure to historical injustices committed by successive regimes against citizens.

In March 2013, the country held peaceful elections and presided over a smooth handover of power contrary to the situation in 2008. What can this turn of events be attributed to? What is the viability of coalition government on peace sustenance and development in Kenya? This study is guided by these two fundamental questions in examining the relationships of the three spheres of life that determines property acquisition in society (political community) and the quality of life of citizens.

1.3. Objectives of the Study

The main aim of the study is to examine the capability of coalition government on political stability, economic and social development of post conflict Kenya between 2008 and 2012 as a way of moderating manifestations of ethnic violence during elections that have characterized the country since the second advent of multiparty politics.

1.3.1. Specific Objectives:

1. To establish the relationship between the Coalition Government and political stability; economic and social development.
2. To determine the effectiveness of the Coalition Government in conflict management and in establishing democratic governance.
3. To examine the contribution of Coalition Government to the peaceful 2013 general elections.
4. To examine whether other factors were the ones that influenced the process and outcome of 2013 general elections.

1.3.2. Study Questions:

1. What is the relationship between the Coalition Government and political stability, economic and social development?
2. How does Coalition Government contribute to effectiveness in conflict management and in establishing democratic governance?
3. How did the Coalition Government contribute to the peaceful 2013 general election?
4. What other factors could have contributed to “peaceful” 2013 electoral process?

1.4. Literature Review

One way of managing devastating consequences of conflict in an increasingly globalizing world is the adoption of coalition government. Conflict management is a common term referring to a wide variety of approaches and methods of dealing with conflict situations as a process designed to stop the destructive nature of conflicts in order to realize their constructive potential but not their avoidance. However, due to existence of two distinct societies: relatively ‘unified’ or homogenous and ‘divided’ or plural societies, conflict management strategies differ. A divided society is composed of groups “formed along ethnic, racial, religious, and regional or class lines.”²¹ Kenya is one of the deeply pluralistic countries to experience devastating ethnic violence in the recent past.

A cross-section of influential scholars on divided societies including Arend Lijphart, W. O. Oyugi, Rupert Taylor, Katia Papaggiani, Pippa Norris and Rene Lemarchand, have provided scholarly work on consociational framework in the African context. Lemarchand in particular offers a comparative assessment of different paths followed by Rwanda, Burundi and the Democratic Republic of Congo (DRC) in their efforts to regulate conflict through consociational formulas. The arguments these scholars advance seem to indicate that the “majority rule is not

²¹ Donald Rothchild, *Managing Ethnic Conflict in Africa*, Washington, DC: Brookings Institute Press, 1997, p. 3.

only undemocratic but also dangerous” even though it is the product of a democratic process. Thus, the majoritarian institutions that emerge from majoritarian rule have the tendency to lead to minority discrimination and exclusion from power. This is a risky affair in that the excluded minority may find grounds to lose allegiance to the regime and cause civil strife. The solution that has been given as a way to alleviate majoritarian institutions in plural societies is power-sharing. This stems from consociational and centripetal theories which were developed to distil the possible approaches on how to share power and best establish democracy in plural societies experiencing ethnic conflicts. The former was introduced by Lijphart and the latter by Horowitz, each of which with guidelines on how it can be applied. These two theories are comprehensively discussed in the conceptual framework below.

Consociational power sharing remained an elusive concept in Kenya until the signing of a peace agreement in 2008 to provide for the formation of a grand coalition that ushered in the first experiences with power sharing on an elite level. It was made possible by the enactment of the National Accord and Reconciliation Act 2008 undertaken within the framework of the Kenya National Dialogue and Reconciliation (KNDR). The parties to the KNDR agreed to establish a number of institutional frameworks to deal with different aspects of the crisis. These included establishment of an Independent Review Commission on the General Elections held on 27th December 2007; establishment of a Commission of Inquiry into Post-Election Violence; establishment of a Truth, Justice and Reconciliation Commission; and the review of long-term issues and pursuit of a constitutional review process.

The National Accord laid the foundation for power sharing and for moving the country out of the crisis. This was followed by the promulgation of the 2010 new constitution for the Republic of Kenya and terminated with the expiry of the term of the grand coalition government on March

4th, 2013 preceded by the 5th general election under multiparty system. These two landmark events took power sharing arrangement to new levels in which it now is achieved through proportional representation both at the national and regional assemblies. The 2010 Kenyan constitution establishes a system where the legislature is divided into an upper and a lower house. The upper house, or the senate, consists of 68 senators representing the new regions or counties while the lower house, the national assembly, consists of 350 seats distributed proportionally representing the Kenyan people. In the counties, the regional assemblies are constructed in a similar way.²²

The practice of coalition governments stems from the theory of consociational democracy in divided societies. The theory involves power sharing as a framework for mitigating conflicts arising from political power imbalances. Since its introduction by Arend Lijphart, it has aroused much scholarly work from 1960s, prompting Donald Horowitz to introduce a counter theory of centripetalism as an alternative to consociationalism. These two scholars have written extensively on the subject and among their key books are Lijphart's "Democracy in Plural Societies" published in 1977 and Horowitz's "Ethnic Groups in Conflict" published in 1985. They had a very intense debate on South Africa in the 1980's and 1990s during apartheid rule by their divergent views.

1.4.1 Consociation and Coalition Formation:

Power as a core element in conflict of political nature exists in various types, but soft and hard are relevant to this study. Soft power represents the capacity to facilitate cooperation and begin the processes of peacemaking and peace building while hard power represents the capacity to enforce or threaten by using armies in the struggle for victory²³ both of which are aimed at

²² Republic of Kenya, *The Constitution of Kenya 2010*, Articles 94-100, Nairobi: Government Printer.

²³ S. Fisher, et al, *Working with Conflict: Skills and Strategies for action*. (London: Zed Books, 2000), p. 39.

affecting the behavior of others. Soft power is divided into exchange and integrative power. Exchange power is based on bargaining and compromise while integrative power is based on persuasion and problem-solving. In a democracy, the emergence of majoritarian institutions as an outcome of majoritarian rule has the tendency to exclude minority from power. This has the potential to cause conflict or for the minority to lose allegiance to the regime and this can be curtailed by a power-sharing arrangement.

Power sharing can be understood in terms of conflict management. The main function of power-sharing in this research is to end violence and build democracy as may be contrasted with the view/claim by some scholars that power sharing intention is to end violence but not necessarily to build democracy.²⁴ This does not automatically mean that power sharing and democracy are not compatible. It simply means that less emphasis is put on the democratic representation and election when the efforts are made to implement power sharing. Spears contend that “power-sharing does not have to mean that democratic principles and procedures must be abandoned; indeed, power-sharing arrangements can be compatible with democracy while diminishing its most destabilizing side effects”.²⁵ Norris sees, “power-sharing as one of the most promising avenues towards lasting peace settlements and sustainable democracy”²⁶. “Power sharing serves as the mechanism that offers this protection by guaranteeing all groups a share of state power. By dividing and balancing power among rival groups, power-sharing institutions minimize the danger of any one party becoming dominant and threatening the security of others”.²⁷

²⁴ Ibid.

²⁵ Ian Spears, Understanding inclusive peace agreements in Africa: the problems of sharing power. *Third World Quarterly*, Vol.21 (1), (2000), 105-118: 105.

²⁶ Pippa Norris, *Driving Democracy: Do Power-Sharing Institutions Work?* (New York: Cambridge University Press, 2008), p. 23.

²⁷ C. Hartzell and Hoddie M., Institutionalizing Peace: Power Sharing and Post-Civil War Conflict Management. *American Journal of Political Science*, Vol.47 (2), (2003), pp. 318-332:319.

One approach to power sharing is to grant minority groups autonomy over some or all aspects of their own affairs limited to cultural issues of religion and education for example, or extended to cover the social, economic, and political spheres as well.²⁸ Another approach is integrative governance in which leaders from each group work jointly to make decisions that tend to resolve conflicts. This approach relies on ethnically neutral decision making and public policies by leaders elected through an electoral system structured to encourage multi-ethnic coalitions within the political system.²⁹ If either of this can be implemented, conflict arising from power imbalances may considerably be reduced in plural societies, but the challenge is the difficulty in implementation because groups holding power are almost always reluctant to relinquish it while those without it tend to want massive change to occur more quickly than it would likely be accepted by the dominant.

Resolving conflicts arising from power imbalances through power sharing has been shown that it can occur at the level of consociationalism or centripetalism. Our focus will be more on consociationalism which highlights protection of groups, especially minorities, who often are victims in conflict and is based upon the idea that in a post-conflict climate where trust between parties is minimal, all significant parties must be secured of participation in government. Sisk views consociationalism as groundbreaking because it provides both an alternative to majoritarian rule and is an answer to the question of how to implement democracy in deeply divided societies.³⁰ The approach relies on a number of key principles among them proportional representation in which all major parties are represented in government³¹; the mutual veto which

²⁸ T.D. Sisk “*Power Sharing and International Mediation in Ethnic Conflicts*” New York: Carnegie Cooperation, 1999, p.37.

²⁹D. Horowitz, “Conciliatory Institutions and Constitutional Processes on Post-Conflict States” *William and Mary Law Review* 49, (2008) pp.1213-1248: 1219.

³⁰ T.D. Sisk “*Power Sharing and International Mediation in Ethnic Conflicts*” New York: Carnegie Cooperation, 1999, p.5; See also Norris (2008), p.23.

³¹A. Lijphart, “Constitutional Design for Divided Societies” *Journal of Democracy* 15-2, (2004) pp. 96-109:103

protects every party against being voted out by a majority to actualize decision-making based on consensus where all parties' participation is guaranteed³²; and segmental group autonomy that is often allowed through federalism where the underlying idea is that a minority can rule "over itself in the area of the minority's exclusive concern"³³ which means that only in areas of common concern will decision-making take place by consensus at the national level. Although it is emphasized that there is "no single consociational blueprint"³⁴, these principles are to be found in all consociational approaches to conflict.

Centripetalism on the other hand, established as a critique and an alternative to consociationalism,³⁵ is concerned with power-sharing as an incentive for cooperation between moderates. An essential feature of centripetalism is intergroup cooperation as a prerequisite for electoral success, which means that leaders have to gain support from other groups in order to be elected.³⁶ The underlying idea is that in order to receive votes from other groups, parties moderate their views by finding common ground between their own and the other group(s) to show that they are willing to compromise. This has the potential to lead to informal cross-boundary coalitions between groups that are formed before elections take place. Horowitz argues that the commitments of one party to another make centripetal approach superior to consociational approach.³⁷ Most power-sharing agreements characterized by centripetalist ideas have a presidential system as opposed to parliamentary, because a strong moderate president can

³² Ibid, pp. 97, 107.

³³ T.D. Sisk "Power Sharing and International Mediation in Ethnic Conflicts" New York: Carnegie Cooperation, 1999, p.37.

³⁴ A. Lijphart, "Consociation: The Model and its Applications in Divided Societies" in Desmond Rea, ed., *Political Cooperation in Divided Societies* London: Macmillan, 1982, p. 175.

³⁵ Pippa Norris, *Driving Democracy: Do Power-Sharing Institutions Work?* New York: Cambridge University Press. 2008), p. 28.

³⁶ T.D. Sisk "Power Sharing and International Mediation in Ethnic Conflicts" New York: Carnegie Cooperation, 1999, p.41.

³⁷ D. Horowitz, "Conciliatory Institutions and Constitutional Processes on Post-Conflict States" *William and Mary Law Review* 49, (2008) pp.1213-1248: 1219.

build the nation by pushing legislation through a divided parliament.³⁸ Centripetalism is not opposed to majority rule, but tries to create a moderate ruling majority that is willing to compromise and reach out to other groups. Horowitz argues that as a consequence of intergroup cooperation across group boundaries, political parties are likely to evolve along different lines than the group differences by which society is divided during conflict and that centripetalism leads to stable governments.

Having seen that power is at the center of conflict and how it can be shared among contenders to minimize on the friction, we wish now to turn to coalition formation in Kenya which forms a good case study of the adoption of coalition government in the aftermath of a conflict.

Karume sees coalition formation as a process of organizing parties collectively to pursue a common goal.³⁹ Organizing of parties may take place at executive or at legislative level of government which can give rise to two kinds of coalitions: either coalition government or legislative coalition. Government coalition is understood to be a set of legislators belonging to different parties that hold cabinet posts⁴⁰ and legislative coalition as a set of legislators from different parties who vote together. In situations where the “parties are disciplined then every government coalition is a legislative coalition”⁴¹, because both are involved in policy formulation and the necessary legal framework for guiding their implementations.

There is, however, a distinction between coalition formation in presidential and parliamentary systems. In presidential systems, the popularly elected presidential candidate forms a government with the members of cabinet mainly chosen from his/her political party while in

³⁸ T.D. Sisk “*Power Sharing and International Mediation in Ethnic Conflicts*” New York: Carnegie Cooperation, 1999, p.43.

³⁹ S. Karume, “Conceptual Understanding of Political Coalitions in South Africa: an integration of concepts and practices”, paper presented at the electoral Institute of Southern Africa (EISA) Roundtable on Political Party Coalitions, Cape Town, 19th June, 2003.

⁴⁰ J. Cheibub et al ‘Government coalitions and legislative success under presidentialism and parliamentarism’ *British Journal of Political Science*, Vol. 34, (2004), pp. 565, 569.

⁴¹ Ibid.

parliamentary systems the party that wins most seats in parliament forms the government with the party leader becoming the prime minister or head of government. In the former system, the presidential candidate can unilaterally form the government even when the party does not have a majority of seats in the legislature by inviting members of other parties to the cabinet⁴² while in the latter; it is argued that a coalition government results from formal negotiations among parties.⁴³ What happened in Kenya in 2008 is a scenario of a president with minority seats in parliament forming the government by inviting the members of other parties to the cabinet.

1.4.2. Models of Coalition Government:

Holding of periodic elections play a very important role in the process of establishing democratic governments. Robert Dahl provides a model (polyarchy) which forms the basis of most current definitions of democracy.⁴⁴ In the model, he calls for the ability to contest and/or to participate in the election of officials of the government. Diamond et al. improves on the model by providing a criterion of participating in the competition by people for offices in government through elections and necessary civil and political liberties to ensure the integrity of the process.⁴⁵ Mill opposes the possibility of democracy persisting in multi-ethnic states. His believe is that institutions would not be able to function properly due to many countervailing opinions.⁴⁶ This prompts Acton to disagree with the view and instead argue that countervailing opinions of various groups force the state to keep away from taking absolute actions. Acton envisages semi-

⁴² Ibid. p. 571.

⁴³ K. Strom & W. Muller, 'Coalition governance institutions in parliamentary democracies', paper presented at the joint sessions of the workshops of the European Consortium for Political Research, Manheim, 26-31 March 1999.

⁴⁴ Robert A. Dahl, "Polyarchy: Participation and Opposition", (New Haven: Yale University Press, 1971).

⁴⁵ Larry J. Diamond, Juan J. Linz and Seymour Martin Lipset, "Politics in Developing Countries: Comparing Experiences with Democracy" 2nd ed., Boulder: L. Rienner Publishers, 1995.

⁴⁶ John Stuart Mill, "Utilitarianism, Liberty and Representative Government", London: J.M Dent & Sons, 1948.

autonomous groups working together in a central government for purposes of achieving common goals.⁴⁷

There are two broad categories of coalition government that can be extracted from existing practices: classical coalition governments (formed to attain parliamentary majority) and consociational coalition governments (adopted to avert political crises in divided societies). Both categories are formed from the interaction of diverse socio-political situations in any given society making no two coalition governments to be exactly similar in the rationale behind their formation and structure.⁴⁸ This process ordinarily gives rise to two kinds of classical coalition government: pre-electoral and post-electoral coalition governments.

1.4.3 Classical Coalition Governments:

A classical coalition government is traditionally embraced by political parties and elite leaders for political convenience. The primary motive of forming classical coalition government is, therefore, to attain the majority in parliament. For this reason, Oyugi is prompted to contend that the formation of coalitions is usually a manifestation of the absence of a dominant party capable of controlling the majority in a legislative assembly.⁴⁹ Pre-electoral coalitions exist where parties choose to co-ordinate their electoral strategies as they run for offices instead of each going it alone.⁵⁰ Parties agree to cooperate hoping that doing so puts them in better positions to jointly win an election and constitute a working majority in parliament.⁵¹ Golder argues that in a pre-electoral coalition, the parties do not compete as independent identities and

⁴⁷ Lord Acton, "Essays on Freedom and Power", New York: Meridian Books, 1962.

⁴⁸ A. Majeed "Coalition politics and power sharing", (New Delhi: Manak Publishers, 2000), p. 3.

⁴⁹ W. O. Oyugi "Coalition Politics and Government in Africa Since Independence," *Journal of Contemporary African Studies*, Vol. 24 (1), (2006), p. 53.

⁵⁰ S. Golder 'Pre-electoral coalition formation in parliamentary democracies' *British Journal of Political Science*, Vol. 36, (2006), p. 195.

⁵¹ W. O. Oyugi, "Coalition Politics and Government in Africa Since Independence," *Journal of Contemporary African Studies*, Vol. 24 (1), (2006), p. 53.

that coalition between or among parties is made known to electorates in advance.⁵² These assertions are considered by Allern and Aylott as not clear who argues that it can be made clear where the parties' coordination strategies have an open aim of forming a post-election executive coalition.⁵³ The 2008 events in Kenya⁵⁴ and Mauritius⁵⁵ are examples of pre-electoral coalitions leading to the formation of coalition governments as explained above in Africa.

In contrast and as has been posited, post-electoral coalitions are adopted in situations where the electoral process fails to return a ruling party with a majority of seats in parliament. As such, the ruling party finds it compelling to invite an opposition party to give it legitimacy to form the government. This scenario makes it mandatory in many states where the norm is coalition governments for political players to discuss the formation of coalitions after the elections.⁵⁶ A comparison of these two forms of coalition in terms of voter preference shows that post-electoral coalition does not reflect the voter preference.⁵⁷ In Africa, the countries that have adopted post electoral coalitions include Malawi after the 1994 elections, South Africa⁵⁸ after the 1999 elections and lately Kenya after the 2007 elections.

⁵²S. Golder, 'Pre-electoral coalition formation in parliamentary democracies' *British Journal of Political Science*, Vol. 36, (2006), p. 195.

⁵³ E. Allern & N. Aylott 'Overcoming the fear of commitment: pre-electoral coalitions in Norway and Sweden', paper presented at the annual Political Studies Association conference, Bath, 11-13 April 2007.

⁵⁴ J. Mutakha, 'Coalition governments and governments of national unity', *Moi University Law Journal*, Vol.1 No. 1, (2007).

⁵⁵ R. Sithanen 'Coalition politics under the tropics: office seekers, power makers, nation building- a case study of Mauritius', paper presented at EISA roundtable on political party coalitions, Cape Town, 19 June 2003.

⁵⁶ *Ibid*, p.2

⁵⁷ H. Norpoth 'The German Federal Republic: coalition government at the brink of majority rule?' in E Browne & J Dreijmas (eds) *Government coalitions in western democracies* (1982) p.7.

⁵⁸ D. Kadima, "Political party coalition building and splitting in post-apartheid South Africa: effects on representative democracy and party systems", paper presented at the EISA Roundtable on Political Party Coalitions, Cape Town, 19th June, 2003.

1.4.4 Consociational Coalition Governments.

Consociational forms of coalition governments are designed to guarantee stability by accommodating minority segments in a deeply divided society.⁵⁹ Institutional design in plural societies can be favorable to some groups and not to others.⁶⁰ This calls for a design of institutions of governance to accommodate the interests and demands of diverse groups and according to Lijphart, these interests and demands are best met by establishing a power sharing framework under a consociational model of democracy,⁶¹ which as a concept provides for grand coalition formation, group autonomy, proportional representation and minority veto as avenues within which such interests and demands can be guaranteed. Arguably, consociational democracy in its pure form has not been operationalized in Africa, but has practically been adopted to bring stability to political systems in countries that have undergone transition either from repressive to democratic regimes or from civil war to peace. The continent, therefore, has had a stint with a balance of power which remains instrumental in determining whether a respective society in conflict over power can endure or slip back to anarchy as it goes through a transition period. Lijphart recognizes and concedes that the essential characteristic of consociational democracy is not so much a particular institutional arrangement but the deliberate joint effort by the elites to stabilize the system.⁶² This means it is the purpose behind its adoption as opposed to its constitutive elements that counts.

⁵⁹ A. Lijphart, 'Consociational and consensus democracy' in A. Lijphart, *Thinking about democracy: power sharing and majority rule in theory and practice*, (2008), p. 31.

⁶⁰ K. Belmont et al, 'Institutional design, conflict management and democracy' in A Reynolds (ed.) *The architecture of democracy- constitutional design, conflict management, and democracy* (2002), p. 1.

⁶¹ A. Lijphart 'The wave of power-sharing democracy' in A Reynolds (ed.), *The architecture of democracy constitutional design, conflict management, and democracy*, (2002), p. 37.

⁶² *Ibid*, p. 29.

1.5 Justification of the Research

Since multi-party elections continue to be riddled with deadlocks, reverses, failures and mounting complexities, continuous studies on unique occurrences such as the events in Kenya between 2008 and 2012 require in depth study to add on to existing knowledge. This study's intention is to contribute to the understanding of why coalition governments in the wake of disputed elections and electoral violence is necessary as a management tool. In reference to Kenya, the work is expected to contribute to the long journey travelled searching for change whose gains can be lost through the dangers of reversions which may arise from the failure to implement the new constitutional order in letter and spirit. It will provide suggestions that may be adopted by other African countries in preventing electoral violence.

1.6 Conceptual Framework:

Power is a core element in any conflict and the fear of losing it is what causes the conflict. This research employs the conceptual framework of consociational and centripetal power-sharing as the analysis tool for the data generated to qualify the hypotheses in this study. This is because power-sharing is a crucial part of peace agreements as well as the new constitutions in many contemporary post-conflict situations. It has been defined as sharing practices and established rules and roles that result in broad-based controlling or leading. Groups agree to share power so as to avoid violent power struggle from taking place during conflict because “power-sharing is one of the most promising avenues towards lasting peace settlements and sustainable democracy.”⁶³

Lijphart presents a “consociational democracy” model which is characterized by four major points for managing conflicts arising from power imbalances. The first and most important one is

⁶³ Pippa Norris. 2008. *Driving Democracy: Do Power-Sharing Institutions Work?* New York: Cambridge University Press. p.23.

the creation of a power-sharing government or ‘Grand Coalition’ where all major societal groups are represented.⁶⁴ This can be achieved in parliamentary systems through coalition governments and proportional representation in parliament whereas in presidential systems through the strong advisory councils in which all groups are represented. The importance of this principle lies not only in the participation of all leaders of the larger groups in society, but also the institutional framework it presents. This makes cooperation by the elite essential to this model. Grand coalition in effect implies that the model of government and opposition is removed and replaced with a consensus democracy. Such grand coalition can be achieved voluntarily or constructed by law. Lijphart strongly argues for constitutional provision to form a grand coalition in conflict prone plural societies.⁶⁵

He further claims that the protection for minority groups through power sharing only is not enough. According to him power sharing needs to be complemented with a veto right. Minority groups need to have veto powers in issues concerning their respective groups. Although this may run the risk of a “minority tyranny” damaging the coalition, it is worth being undertaken because the veto right is extended to all groups, thus proving counterproductive for one group to use it too often. The creation of incentives for groups to cooperate and accommodate each other leads to limited usage of veto power. Besides, no group will want to see the government operations always at a standoff, meaning all will want to practice a restrained usage of the veto rights.⁶⁶

The third principle in consociational model is proportional representation. According to Lijphart, proportionality must not only be used in elections but also in the civil service. Financial resource allocations and civil service appointments need to be spread to cover the different

⁶⁴ Arend Lijphart, *Democracy in Plural Societies – A Comparative Exploration*, New Haven and London, Massachusetts, USA: Yale University Press, (1977), p.25.

⁶⁵ *Ibid*, pp. 25-30.

⁶⁶ *Ibid*, pp. 36-38.

segments of society. Lijphart is convinced that a proportional method distributes power in a neutral way and views the parliamentary system as the proper tool for achieving this. He argues that proportionality refines the grand coalition concept by ensuring all significant segments of society are represented in decision-making organs. This has the potential to create an environment where decisions are made through compromise because all the groups has a chance to influence the decision making process. He, however, notes that proportional composition of cabinets and other organs do not solve the problem of how to achieve proportional influence when the nature of the issue is dichotomous. In such a scenario, there will always be winners and losers if the outcome is to be decided on a yes or no basis. Lijphart suggests that by linking several issues, where everybody is offered something, the effects can be limited. He also suggests that delegating the most divisive issues to the top leaders of the different groups can increase the possibility of reaching an agreement in such type of issues.⁶⁷

The other equally important principle is segmental autonomy. Here, the argument is that the different ethnic segments of society should have a substantial degree of autonomy in issues that only concern their segments. This notion, of making a plural society even more plural, lies at the core of the consociational model. The approach is not to abolish or weaken segmental divisions but to recognize them explicitly and turn them into constructive elements of stable democracy. In situations where the groups are already concentrated by territory, a federal model may work well to achieve consociational goals, but when groups are not geographically separated and a federal model is not applicable, segmental autonomy becomes a major concern.⁶⁸

As far as political parties' structure is concerned, and being the "vehicles" in which political power contenders ride to victory, consociationalists argues for political parties to be constructed

⁶⁷ Ibid, pp. 38-41.

⁶⁸ Ibid, pp. 41-43.

around clear social divisions in which all significant groups, including minorities, can ‘define themselves’ into segmental political parties.⁶⁹ Thus, consociationalists generally argue that parties should be allowed to “focus upon gaining votes from a narrower home-base among particular segmented sectors of the electorate.”⁷⁰

Donald Horowitz, on the other hand, view consociational model for democracy in plural societies as freezing, entrenching, and perpetuating the very divisions it is meant to accommodate. He, therefore, argues that it is more important to avoid a system that produces racially or ethnically defined majorities and minorities.⁷¹ This view stems from a very different view of ethnicity where ethnic and racial differences are seen as more fluid and/or more of a social construct than what Lijphart would accept. Horowitz argues that it is unlikely that ethnic groups will have an internal cohesion and a single set of leaders that can speak for a whole group. By this he means that the existence of this intra-ethnic competition will make Lijphart’s grand coalitions unlikely to appear. Furthermore, Lijphart’s assumption that leaders will act rationally and cooperate because of realizing the dangers of not doing so, is a misnomer as leaders often lack freedom of choice. He asserts that there is no guarantee that the elite will have good intentions and want to cooperate with former enemies.⁷² Instead, for Horowitz, the preferred strategy is a design that would create strong incentives for political leaders to build coalitions that cut across racial and ethnic segments. Horowitz does not abandon the majoritarian

⁶⁹ B. Reilly, Institutional Designs for Diverse Democracies: Consociationalism, Centripetalism and Communalism Compared, *European Political Science*, Vol. 11 (2), (2011), p. 262.

⁷⁰ Ibid.

⁷¹ D. Horowitz, *A Democratic South Africa? – Constitutional Engineering in a Divided Society*, (Berkeley and Los Angeles, California, USA: University of California Press, 1991), p. 100.

⁷² D. Horowitz, *Ethnic Groups in Conflict*, (Berkeley and Los Angeles, California, USA: University of California Press, 1985), 573-575.

democracy like Lijphart but aims to create majorities that crosscut ethnic cleavages and create moderate interethnic coalitions.⁷³

Since this system seeks to support a moderate middle, Horowitz refers to it as the centripetal approach whose aim is to create a centripetal spin to the political system to pull parties towards a more moderate center. Centripetalism emphasizes the importance of institutions that can encourage cooperation and which are built not on a regime of ethnic guarantees but on the provisions of incentives that are primarily electoral to benefit ethnic parties who reach out to other groups than their own.⁷⁴ In such a system, leaders need to draw votes from more than one ethnic group as well as appealing to a wider group of people. This would create incentive for ethnic parties to moderate their position and engage in cross-ethnic appeal. In turn this would create a system where there can be majority rule based on other factors apart from ethnicity. For Horowitz the primary approach to achieve this moderating effect is through the electoral system. Horowitz argues for “vote pooling” which is achieved through single member districts with an alternative vote as a preferred system to proportional representation.⁷⁵ This system requires the voter to list their choice of candidates and if no one gains majority votes, they are transferred in accordance with their rankings to electing a majority supported winner. While supporting this system, Reilly argues that because the system makes politicians dependent on transfer votes, they will benefit from appealing to other groups to ensure the broadest possible support.⁷⁶ The goal is always to encourage parties and candidates to ‘pool votes’ across ethnic lines, which,

⁷³ D. Horowitz, Conciliatory Institutions and Constitutional Processes in Post-Conflict States, *William and Mary Law Review*, Vol. 49, (2007-2008), p.1217.

⁷⁴ Ibid.

⁷⁵ Ibid, pp. 1217-1218.

⁷⁶ B. Reilly, Institutional Designs for Diverse Democracies: Consociationalism, Centripetalism and Communalism Compared, *European Political Science*, Vol. 11(2), (2011), p. 264.

centripetalists contend, can promote cooperative outcomes and in so doing, take the heat out of ethnic politics.⁷⁷

Just as the centripetal approach regarding electoral systems differ from the consociational approach, so do the theories differ when it comes to political parties. Consociationalists argue for ethnically based parties, centripetalists advocate an aggregative party system. Centripetalists therefore endorse the development of multi-ethnic parties representing all significant social groups and argue that over time, such groups can serve to foster more fluid, crosscutting affiliations to moderate the views of ethnic extremists and depoliticize social cleavages.⁷⁸

Another important area of contrast between the centripetal and consociational approach concerns territorial recommendations such as federalism, devolution and autonomy. Consociationalists see federalism as a tool to foster group autonomy with homogenous regions while centripetalists suggest that federalism with heterogeneous regions would be a more appropriate choice in retaining the unitary state. Horowitz argues that in heterogeneous regions, federalism can foster cooperation among politicians of different ethnic groups before they arrive at the central government.⁷⁹

A final important area of contention between the two theories concerns the formation of governing coalitions. While both favor executive power sharing by multi-ethnic coalitions, there is a disagreement on the optimal applications of these models. As noted, consociationalists advocate for 'grand coalitions' in which all significant segments of society are included in the cabinet. This should be done, where necessary, by a constitutional decree. Centripetalists on the

⁷⁷ Ibid, p. 263.

⁷⁸ B. Reilly, Introduction to Political Parties in Conflict-Prone Societies: Regulation, Engineering and Democratic Development, in B. Reilly & P. Nordlund, *Political Parties in Conflict-Prone Societies: Regulation, Engineering and Democratic Development* (pp. 3-24), (Tokyo, Japan: Center for Democratic Institutions (CDI), International Institute for Democracy and Electoral Assistance (IDEA), and United Nations University (UNU), 2008), pp. 4-5.

⁷⁹ D. Horowitz, Conciliatory Institutions and Constitutional Processes in Post-Conflict States, *William and Mary Law Review*, Vol. 49, (2007-2008), pp.1217-1218.

other hand view these constructs as weak arrangements that are prone to falling apart when controversial decisions are taken. Horowitz argues that true multi-ethnic coalitions are founded on common issues and interests. This view is linked to the other view on the electoral system in which Horowitz is in favor of pre-election pacts that are created through vote-pooling. These coalitions, he argues, would be more stable as they are built upon a more enduring commitment than the constructed coalitions of consociational theory.⁸⁰

In summary, contrasts between consociational and centripetal theories lies in the electoral system, views on political parties, devolution and formation of governing coalitions. As far as the electoral system is concerned, Lijphart argues strongly for a pure proportional representation that will give proper representation to ethnic parties. This contention is based on proportional representation's tendency to produce multi-party systems, and hence multi-party parliaments in which all significant segments of the population can be clearly represented. Horowitz on the other hand argues for a system of electoral incentives where politicians are rewarded for reaching out across ethnic divides. The centripetal theory therefore, argues for an electoral structure with alternative vote that encourages parties and candidates to 'pool votes' across ethnic lines.

Regarding views on political parties, consociationalists argue that political parties should be structured along ethnic lines where parties should be encouraged to appeal to their ethnic groups. This is meant to ensure all large groups are represented proportionally in the government. Centripetalists on the other hand contend that parties should not be based on ethnicities, but should instead be created as to depoliticize divisions. They endorse the development of multi-ethnic parties representing all significant social groups.

⁸⁰ D. Horowitz, *A Democratic South Africa? – Constitutional Engineering in a Divided Society*, (Berkeley and Los Angeles, California, USA: University of California Press, 1991), p. 177.

The theories also view devolution differently. Lijphart advocates for groups to be separated and allowed to enjoy segmental autonomy in homogenous federal units. Horowitz on the other hand argues that creating heterogonous regions will create moderation and acceptance among different ethnic groups. Finally, the views on the formation of governing coalitions differ in the sense that consociationalists want a grand coalition consisting of all large ethnic groups to be created in post-election either voluntary or through electoral approval, while centripetalists argue that the electoral system is better suited for creating multi-ethnic coalitions through incentives for cooperation.

1.7 Hypotheses:

This research proceeds from the assumption that Kenya's Grand Coalition Government was a consociational model of democracy and takes the initial position that its adoption enhanced political stability which was critical to post-conflict economic and social development; it increased the potential for success in managing the ethnic conflict that caused the 2007/2008 post-election violence; and that it has contributed to peaceful general elections of March 4th, 2013.

1.8 Research Methodology

This research project is a qualitatively and quantitatively based case study of Kenya: 2008-2012. The research adopts a case study method as the main research strategy because it is a popular form of qualitative analysis involving careful and complete observation that can be applied on a particular political community under study. Since the research problem in this study need more emphasis to be placed on full analysis of limited events or conditions and their interrelatedness, this is the best method because it is in depth rather than breadth. It is also best suited in locating the factors accounting for the behavior of members in an integrated society.

George and Bennett define a case study approach as “the detailed examination of an aspect of a historical episode to develop or test historical explanations that may be generalizable to other events.”⁸¹ I argue that this approach is the most appropriate for dealing with the questions that this research poses and objectives thereof. I seek to identify a causal sequence that explains why previous coalition governments failed to address long standing issues only for them to be addressed by the Grand Coalition government of 2008. In this way I hope to add to theorizing on the conditions under which coalitions form.

This research objective is consistent with that of many qualitative analyses that adopt a “causes of effects” approach to explanation. It is often noted that unlike statistical research projects which begin from a question of effects-of-causes, e.g. how does x affect y or to what degree does x affect y, case study approaches take the opposite view. They are concerned with causes-of-effects. This approach starts with a case and its outcome and then moves backward to identify the causes. In my case, this reflects the observation that power sharing was almost non-existent in Kenya and therefore my desire to explain the causal sequence that led to this outcome. Narrative and process-tracing are especially useful tools for unpacking these types of processes, because their primary focus is on a detailed sequencing of events that helps to identify the causal patterns and mechanisms at work. This is most often completed with exactly the types of research tools and strategies that are available, specifically archival research and in-depth interviews.

1.8.1 Sampling Procedure

This research is a case study. It examines the impacts of coalition government on stability growth and development in Kenya up to 2012 while synthesizing the events of 2007 national

⁸¹ A. L. George and A. Bennett, *Case Studies and Theory Development in the Social Science* (Cambridge, MA: MIT Press, 2005) p.5.

election. The choice of Kenyan coalition government and the conflict that caused it is based on the fact that it is the latest episode in international system and the first in the region and the approach to resolving it presenting a context to be considered.

1.8.2 Data and Data Collection Instruments

The study utilizes both primary and secondary data. Primary data is obtained from respondents interviewed in the course of the research by the researchers. Secondary data mainly come from scholarly works both published and unpublished. It includes books, journals, reports, internet material and, to some extent, the print media. The instruments employed in primary data collection are questionnaires and in-depth interviews whereas secondary data is gathered through the literature review.

1.9 Chapter Outline:

Chapter one presents the entire proposal that comprise of background to the study, statement of the problem, objectives, study questions and justification. Chapter two explores the historical and theoretical aspects of coalition governments and their impacts on political, economic and social development. Chapter three undertakes a case study of Kenya's adoption of coalition government as a tool for managing conflict between 2008 and 2012. Chapter four presents a critical analysis of the emerging issues. In chapter five, the researcher brings the work to a conclusion and provides a catalogue of recommendations flowing from the study.

CHAPTER TWO

HISTORICAL ASPECTS OF COALITION GOVERNMENT

2.1 Introduction:

Man, besides being a political, is also a social animal⁸² (Aristotle 384-321 B.C.) who has natural instincts to be organized in associations which revolve around the social, economic and political aspects. In political realm, such associations are in forms of political parties. Coalition formation being a process of organizing parties for collective pursuit of a common goal⁸³ is at the center of coalition government formation. As has been shown from the literature review, coalition government has a role to play in maintaining or bringing about political stability to spur economic and social development. In situations where a conflict has occurred in plural societies, coalition government is adopted as a management tool and the process of (r)establishing democratic governance. In Kenya, political coalitions have taken place at various intervals. This chapter gives a brief historical background of coalition government in Kenya, establishes the relationship between coalition government and political stability, economic and social development in an attempt to determine its effectiveness in conflict management and establishment of democratic governance.

2.2. Historical Background of Kenya:

Kenya came into being during the colonial period in late 1800s as a colony of Great Britain. The various communities of Kenya had their own distinct ways of life and different cultural and socio-economic conditions which occasionally led to violent clashes among them. The conquest of Kenya by the British led to the establishment of infrastructures and institutions to serve their

⁸² Aristotle (384-321 B.C.), in Stephen Everson (ed.), *The Politics*, New York: Cambridge University Press, 1988.

⁸³ S. Karume 'Conceptual understanding of political coalitions in South Africa: an integration of concepts and practices', paper presented at the Electoral Institute of Southern Africa (EISA) Roundtable on Political Party Coalitions, Cape Town, 19 June 2003.

interests. This significantly changed the then existing socio-cultural and political economy of the local people. It is unfortunate that colonial rule was established to enable capital penetrate economies of respective spheres of influence whose mode of production was to be replaced for purposes of integration into the western capital system. This system turned out to be exploitative to the indigenous people resulting into the current variance in growth and development where the poorest countries advance at the lowest rates, followed by the wealthiest and the 'middle-income' countries in an ascending order.⁸⁴ Poorer countries have been noted to have sudden changes in growth rates, both up and down. Some of these changes are due to political or military disruptions. In Angola, for example, the total Gross Domestic Product (GDP) growth fell from 4.8 in the 1960s to -9.2 in the 1970s while in Iran the GDP fell from 11.3 to 2.5 in the same periods.⁸⁵

Since land was central to the control of Kenya as a colony, colonial power made moves to secure large portions of fertile land in the highlands through violent and/or peaceful means to the extent that by the time Kenya became independent, the patterns of settlement and population composition had clear geographical demarcations.⁸⁶ This laid the foundation for the hitherto lingering political and constitutional debates that has remained contentious in the country's politics until today having begun in 1963 with the attainment of independence. It centered on the issues of integration and segregation. Colonial power (Britain) and the Kenya African Democratic Union (KADU) pushed for regionalism to ensure protection for minority groups is guaranteed, while the Kenya African National Union (KANU) under Jomo Kenyatta advocated for nationalism and unity. This early constitutional debate was won by KADU and Great Britain,

⁸⁴ Robert E. L. Jr., "On the Mechanics of Economic Development", *Journal of Monetary Economics*, Vol. 22, North-Holland, (1988), pp. 3- 42: 4.

⁸⁵ Ibid

⁸⁶ M. O. Makoloo, Kenya: Minorities, Indigenous Peoples and Ethnic Diversity. *Minority Rights Group International Report*, 0-40, (2005) p. 5.

thereby providing a parliamentary system with strong regional autonomy as a governance structure.⁸⁷

However, the system was short-lived because in the 1963 polls, KANU won the elections and paved the way for Kenyatta to become the country's first prime minister.⁸⁸ He almost immediately initiated a process that marginalized KADU until it dissolved to make the country a *de facto* single-party state. As a result, the government abandoned *majimboism* and altered the constitution to make Kenya a republic with Kenyatta as its president until his death in 1978.⁸⁹ A further alteration on the constitution to centralize government led to a *de jure* single-party state.⁹⁰ This had the advantage of maintaining a measure of political stability during Kenyatta rule with the *harambee* spirit working well in quelling ethnic violence despite undercurrent mistrust and animosity existing in the fabric of the Kenyan society.⁹¹ The exit of Jomo Kenyatta ushered in Daniel Moi who followed in the footsteps of a centralized power and authoritarian governance instituted.⁹² This was cut short by calls for change which was occasioned by a weakened economy that increased the pressure by opposition to his regime evidenced by the attempted coup d'état in 1982 and widespread rioting in 1990s.

In the first multi-party elections held in 1992, violent clashes between ethnic groups shook the nation and made apparent the cracks in the fabric of society. The second multi-party election of 1997 did not bring any anticipated change, as the disunity among the opposition coupled with

⁸⁷ D. M. Anderson, 'Yours in Struggle for Majimbo'. Nationalism and the Party Politics of Decolonization in Kenya, 1955-64. *Journal of Contemporary History*, 40 (3), (2005) p. 547 (547-564).

⁸⁸ C. Sanger and J. Nottingham. 1964. "The Kenya General Election of 1963." *Journal of Modern African Studies* 2(1): pp. 1-40.

⁸⁹ D. M. Anderson, 'Yours in Struggle for Majimbo', Nationalism and the Party Politics of Decolonization in Kenya, 1955-64. *Journal of Contemporary History*, 40 (3), (2005) pp. 556-557.

⁹⁰ C. Odhiambo-Mbai, The Rise and Fall of The Autocratic State in Kenya, in W. O. Oyugi, P. Wanyande, & C. Odhiambo-Mbai, *The Politics of Transition in Kenya* (pp. 51-95). (Nairobi, Kenya: Heinrich Böll Foundation, 2003) pp. 63-65.

⁹¹ M. Chege. Kenya: Back From the Brink? *Journal of Democracy*, Vol. 19 (4), (2008), p.127.

⁹² C. Odhiambo-Mbai, The Rise and Fall of The Autocratic State in Kenya, in W. O. Oyugi, P. Wanyande, & C. Odhiambo-Mbai, *The Politics of Transition in Kenya* (pp. 51-95), (Nairobi, Kenya: Heinrich Böll Foundation, 2003) pp.63-65.

flare up of political violence gave KANU another victory to maintain the status quo. The hitherto strong chain broke in the 2002 elections when the opposition united under the National Rainbow Coalition (NARC) to win and hand the presidency to Mwai Kibaki.⁹³ Kibaki's government was received with joy from citizens but quickly fell from grace as evidence of strong connections to the former regimes emerged. This sparked off a wave of in-fights among the coalition ethnic groups in NARC which may have set the stage for the violence that followed the 2007 elections. The split in NARC gave birth to the Orange Democratic Movement (ODM) forming into an opposition and the Party of National Unity (PNU) merging into the ruling coalition. In 2007 campaigns, the ODM advocated for a more federal Kenya while PNU echoed the beliefs of former presidents Kenyatta and Moi and argued for strong national unity⁹⁴ making the election once again center on the very issues that had plagued the nation since independence – separation or integration. The events that surrounded presidential vote tallying, declaration and subsequent swearing-in of Kibaki as winner but with minority seats in parliament lend credence to the feeling of majority opposition that their candidate had been cheated out of victory. This triggered protests that soon turned violent.⁹⁵

Kenya trooped into the New Year (2008) under intense ethnic conflict reminiscent of scenes in Rwanda in 1994 and South Africa before end of apartheid. Approximately 1200 people were killed and 350,000 others internally displaced.⁹⁶ International mediation and the willingness of party leaders Kibaki and Odinga to see sense in compromise ended the conflict on the 28th of February 2008. The parties reached an agreement and entered into a shared cabinet with all

⁹³ G. Murunga, & S. Nasong'o, Bent on Self-destruction: The Kibaki regime in Kenya, *Journal of Contemporary African Studies*, Vol.24 (1), (2006), pp. 1-2.

⁹⁴ M. Chege, Kenya: Back From the Brink?, *Journal of Democracy*, Vol.19(4), (2008), pp.134-133.

⁹⁵ Ibid, pp. 136-137.

⁹⁶ Office of the High Commissioner for Human Rights, *Report of the Office of the High Commissioner for Human Rights on the fact-finding mission to Kenya*, (Geneva: OHCHR, 2008).

Kenya's prominent ethnic groups represented. This grand coalition was not a long lasting solution. What the country needed was a political restructuring. One of the most important tasks for the new government to cause this happen was to draft a new constitution for Kenya, one that would hinder ethnic violence and reduce the powers of the president.⁹⁷

2.3. Coalition Government, Political Stability, Economic and Social development:

2.3.1 History of Coalitions in Independent Kenya:

Traces of consociational and centripetal coalition governments, as conceptualized, may be argued to have first emerged in Africa in the 1960s during transition from colonialism to independence. For the case of South Africa, Tutu for example argues that coalition governments came into being on the eve of or immediately after independence ostensibly to create stable political climates to foster inter-racial accommodation and create an environment for reconciliation following decades of white oppression against blacks.⁹⁸ This transition has been described as the 'first generation coalitions'.⁹⁹ The second set is coalition governments adopted during transition from civil war to peace and have largely been products of negotiations for the end to inter-group wars where each warring group want an assurance that state power will not be exclusively exercised by one group.¹⁰⁰ This is what is perceived to have introduced the concept of power-sharing in the continent to guarantee every group in a conflict a slice of state power¹⁰¹ that has emerged as the best solution to groups that do not see the possibility of seceding from the authority of the state in existence and at the same time, cannot tolerate the status quo.¹⁰²

⁹⁷ M. Chege, Kenya: Back From the Brink? *Journal of Democracy*, Vol.19 (4), (2008), p. 126.

⁹⁸ D. Tutu, "No future without forgiveness", (New York: Image Books, 1999).

⁹⁹ W. O. Oyugi, 'Coalition politics and coalition governments in Africa', *Journal of Contemporary African Studies*, Vol. 24, (2006), p. 53

¹⁰⁰ C. Hartzell & M. Hoddie, 'Institutionalizing peace: power sharing and post-civil war management', *American Journal of Political Science*, Vol. 47 (2) (2003) pp. 318-319.

¹⁰¹ Ibid.

¹⁰² I. Spears, 'Understanding inclusive peace agreements in Africa: the problems of sharing power', *Third World Quarterly*, Vol. 21, (2000) p. 105.

Coalitions in Kenya trace its origins to the period when Kenya African Democratic Union was founded based on small tribes joining together. After Kenya became a republic in 1964, Kenyatta formed the first government of national unity. KADU joined the government. This was transition period and in almost every transition, a unity government is seen as the first step followed by competitive politics. Since then, coalitions started being based on tribes rather than ideology. Kenya almost went over the huddle of transition in 1975 but the effort was defeated by the then Attorney General when he stopped the debate of Kenyatta succession which was followed by making Kenya a one party state in 1982. These two actions denied Kenya competitive politics until 1992 when already tribalism had been entrenched. When Kenya was officially made a one party state in 1982, parliamentary elections were held in 1983 only to be reinforced in the 1988 general elections. In 1991, parliament annulled the one party section of the constitution and ushered in multi-party democracy again.

2.3.2 Coalition Government and Economic Development:

To better understand society from the perspective of human want influencing its establishment, the economic structure arguably assumes a central role. Economic structure is concerned with how the goods are produced to meet the material needs of the society, how those goods produced are distributed and what types of social relations arise from the organization of production.¹⁰³ Ake argues that economic need is man's fundamental and primary activity,¹⁰⁴ which unless is met, man cannot exist for he must eat before he does anything else. The economic structure, therefore, forms the basis of understanding the culture, laws, religious, political and modes of thought of society. He further posits that any empirical study of a historical or contemporary society is likely to find that members from economically privileged

¹⁰³ Claude Ake, "A Political Economy of Africa", Longman Nigeria, 1981, p. 1.

¹⁰⁴ Ibid. p. 2.

groups will tend to be better educated, more cultured to have higher social status or more successful professionally and politically. Such an outcome can make economic inequality extremely important in having the general tendency to reproduce itself endlessly in a series of other inequalities.¹⁰⁵ This, in consequence, can have the potential to make economic structure the pace-setter of a general trend of political interests and alignments. Thus, those economically privileged will be interested in preserving the existing social order as those disadvantaged by it – especially the distribution of wealth – will have a strong urge to change it.

The situation in Kenya between independence and first multi-party elections in 1992 was such that there was immense disparity between the rural and urban areas in terms of resource allocation and development.¹⁰⁶ It was started by the colonial government when it concentrated development in selected regions – Central Kenya (Kiambu, Nyeri and Murang'a); Eastern (Machakos and Meru); Western (Kakamega and Bungoma); Nyanza (Kisumu and Kisii) and a few urban areas like Nairobi, Mombasa, Kisumu and Nakuru.¹⁰⁷ From the time Kenya attained her independence, the development strategy was anchored on Sessional Paper No 10 of 1965 on “African Socialism and its Application to Planning in Kenya”. The aim was to remove the inequalities inherited from colonial period because the state had “...the obligation to ensure equal opportunity to all citizens, eliminate exploitation and discrimination and provide the needed social security.” To develop the country, the government committed itself in improving key strategic and essential infrastructures and services like harbors, principal roads, railway, airways, broadcast and telecommunication. But the manner in which these services were provided was not equitable and favored certain areas at the expense of others which were only

¹⁰⁵ Ibid

¹⁰⁶ J. Kivuva, The Political Dynamics of Regional Disparities and Marginalisation in Kenya, in C. M. Khisa and P. Oesterdiekhoff (ed.), *Regional Disparities and Marginalisation in Kenya*, (Nairobi: Friedrich-Ebert-Stiftung, 2012), pp. 4-29: 9

¹⁰⁷ Ibid.

opened up for purposes of exploitation and investment. For example, during Kenyatta rule, infrastructure development targeted tea and coffee growing areas in central regions of Kenya, neglecting most other areas like north eastern. Moi, upon succeeding Kenyatta, in the same vein, pursued policies that targeted grain growers in his Rift Valley region. Cooksey et al says subsequent policy makers in Kenya adopted a laissez faire development approach which was not concerned with regional disparity alleviation in terms of development and education.¹⁰⁸ They argue that Kenyatta government was more interested in growth and economic development in general than in redistribution making benefits of growth to be enjoyed by a few elites and communities. They further observe that in the 1980s, the economy stagnated when the government was denied foreign aid by donor community upon differing with president Moi on principles. The government was as a result, forced to reduce public spending as a Structural Adjustment Program (SAP) measure and introduced cost-sharing in provision of public services,¹⁰⁹ which disadvantaged the marginalized people who were supposed to be protected. Successive governments/regimes attempts to address this question of inequality have been met with indifference.

Since our concern is the interactions of different elements of social life which include economic, social and the political structures, we now turn to examining the relationship among them. We begin by arguing that these different social structures are interdependent and interact in complex ways, each affecting the character of the other and in turn being affected by the others. It has variously been argued that with availability of economic knowledge, the general character of the social system, the political system, and the belief system of a society can be guessed. Economic structure has been thought to be the most decisive of all these elements in

¹⁰⁸ B. Cooksey et al, "Education for Self-Reliance and Harambee", in J. Barkan (ed.), *Beyond Capitalism vs. Socialism in Kenya and Tanzania*, (Nairobi: EAEP, 1995), p. 211

¹⁰⁹ Republic of Kenya, Development Plan 1984-1988, (Nairobi: Government Printer, 1984), p. 43

society and which largely determines the character of the others. Ake, for example, assumes that it is the economic factor which provides the axis around which all the movement takes place and imparts certain orderliness to the interaction.¹¹⁰

2.3.3 Coalition Government and Social Development:

Social development is about putting people as the midpoint of development. This means a commitment that development processes benefit people (particularly but not only the poor) and recognizes that the people and their interaction in groups and society together with the norms facilitating such interaction shape development processes. Debates on growth and poverty reduction stress the importance of norms of cooperation right from villages and neighborhoods, community oversight in the management of projects, and non-discrimination against women and minorities in education and health.¹¹¹ Social institutions, which drive and form the basis of development, are the behaviors, norms and conventions that pattern human interaction.¹¹² Participation in local organizations, demonstrations, petitions, and elections are examples of such behaviors.

Participation in elections is of particular interest to people. Elections were introduced to bring the numerically largest ethnic group to power in plural societies. This has over time, created a situation where we see permanent winners and losers in this typology of society. It has been observed that in some countries where multi-party competition was introduced during the “third wave of democracy”, elections have produced permanent or at least perennial winners and losers with democracy remaining relatively stable. Such countries are Malawi, Mozambique and South Africa. This means that under certain conditions, democracy can be stable even if elections

¹¹⁰ Claude Ake, “A Political Economy of Africa”, Longman Nigeria, 1981, p. 4

¹¹¹ G. Davis, “A History of the Social Development Network in the World Bank, 1973-2002,” *Social Development Papers*, no. 56, Washington D.C., World Bank, 2004, p. 24-25.

¹¹² Ibid.

produce “permanent” winners and losers. Thus, where the electoral winners have to choose between appropriating the spoils of victory (state resources) for themselves and followers, they need to recognize that they have to share with the losers lest they refuse to continue playing the democratic game like it happened in 2007/8; consider seceding like the Mombasa Republican Council (MRC) are contemplating along the coastal region of Kenya, attempt a coup like it happened in 1982 or a civil war. With the desire to keep the game going, winners ought to pursue a moderate policy vis-à-vis other ethnic groups. Moderation requires that winners overcome internal coordination problems and avoid outbidding. Within existing literature, it has been established that outbidding is a primary mechanism through which ethnic divisions become polarized, thereby creating conditions in which democratic competition become untenable.¹¹³

Social development thus implies the change in social institutions – a progress towards an inclusive society where individuals treat each other fairly in their daily lives, whether in the family, workplace, or in public office. Social cohesion is enhanced when a peaceful and safe environment within the neighborhoods and communities are created which is the function of political stability. Social accountability exists to the extent that the citizens’ voices are expressed, and heard by the authorities.¹¹⁴ Formal institutional reforms like the provision of legally enshrined rights, better law enforcement or more participatory governance are part of the process by which institutional change is achieved.

Indices of Social Development can be grouped into five categories. In an experts discussion at World Summit for Social development in 1995 held at Copenhagen, the following comprehensive categories emerged: civic activism which refer to social norms, organizations,

¹¹³ D. Horowitz, *Ethnic Groups in Conflict*, (Berkley and Los Angeles, California, USA: University of California Press, 1985), 573-575.

¹¹⁴ G. Davis, “A History of the Social Development Network in the World Bank, 1973-2002,” *Social Development Papers*, no. 56, Washington D.C., World Bank, 2004, p. 24-25.

and practices facilitating greater citizen involvement in public policies and decisions; clubs and associations which refer to levels of engagement in local community groups, time spent socializing and membership of developmental organizations as part of social networks and potential support by community ties; inter-group cohesion which refers to relations of cooperation and respect between groups in a society whose breakdown leads to conflict and acts of terror and riots; interpersonal safety and trust which measures the level of trust and confidence between individuals that do not know each other personally with regard to the likelihood of criminal violence and other forms of trust violation; and gender equality which estimates the extent of discrimination against women, whether in the labor market, education, healthcare, or in the home.¹¹⁵

2.3.4 Coalition Government and Democratic Governance:

Governance means the exercise of political power to govern a nation's affairs. It is an "aspect of politics that aims to formulate and manage the rules of political arena in which the state and civil society actors operate and interact to make authoritative decisions".¹¹⁶ The crisis in governance may obstruct development.¹¹⁷ Poor governance has the tendency to cause conflict, whereas, good governance plays a key role in building countries as well as rebuilding countries emerging from a conflict situation. This is possible when a functioning government is in power.

A government, in this context, is a group of people who governs a community or a unit by setting and administering public policy and exercising executive, political and sovereign power through customs, institutions and laws within a state. A state is regarded as a coercively-imposed

¹¹⁵ World Summit for Social development, Copenhagen 1995, available at <http://www.un.org/esa/socdev/wssd/index.html> accessed on June 30th, 2013.

¹¹⁶ Govan Hyden, Governance and the reconstitution of the political order. In: Joseph Richard ed., *State, conflict and democracy in Africa*, (London: Lynne Rienner, 1999) p. 185.

¹¹⁷ World Bank, Sub-Saharan Africa: From crisis to sustainable growth, *A long-term perspective study*, Washington D.C., The World Bank, 1989, p. 10.

territorial monopolist for provision of defense and dispute resolution services whose basic function is to protect the lives of citizens.¹¹⁸ Governments have been classified variously. According to Aristotle, the government where one rules is a kingship, where the few rule is an aristocracy and where many administer is a constitution.¹¹⁹ In liberal democracies, the practice and process of ensuring governments change hands is aimed at preventing the majority from oppressing the minority. This is usually through the ballot in an election where the minority will also have a role to play. Byman argues that a liberal democracy has the tendency to produce liberal results.¹²⁰ However, in a plural society where one identifiable ethnic group is in the majority, the government is unlikely to change hands which negate this argument. A republican government, on the other hand, is one in which power is held by the people who give it to their elected leaders to represent and serve their interests.¹²¹ In its ideal situation, it is considered to be the best because it is meant to help all in the country.¹²² Bastiat (1848) argues that a government is a united power of the people, organized not to be an instrument of oppression and mutual plunder among the citizens, but to cause justice and security to reign.¹²³ It is also viewed as the mysterious personage most solicited, most tormented, most overwhelmed, most admired, most accused, most invoked and most provoked of any personage in the world.¹²⁴

Democracy is a social and political condition under which citizens feel free and are free to criticize and censure in good faith their government without fear and occurrence of any

¹¹⁸ Center for a Stateless Society, available at <http://c4ss.org/contents> accessed on 24th June 2013.

¹¹⁹ Aristotle (384-321 B.C.), in Stephen Everson (ed.), *The Politics*, New York: Cambridge University Press, 1988, p. 61.

¹²⁰ Daniel Byman, "Keeping the Peace: Lasting Solutions to ethnic Conflicts", Baltimore: John Hopkins University Press, 2002, p. 127.

¹²¹ Center for Civic Education, 2009, available at http://www.civic.org/index.php?page=we_the_people_the_the_citizen_and_the_constitution, accessed on 24th June, 2013.

¹²² Ibid.

¹²³ David T. Freeman Personal Empowerment Resources available at <http://www.mind-trek.com/-m/notes.htm> accessed on 24th June 2013.

¹²⁴ Ibid.

reprisal.¹²⁵ In any democracy, the sovereignty power reside in the people who, because they cannot exercise it directly, mandate it to elected officials in an election process that must be fair and free so that only peoples' choices undertake representation.¹²⁶ Demands of democracy are: the full and meaningful participation of citizens in government process through organs like political parties, trade unions and community associations in ensuring policies reflect and cater for broad interest of citizens; in a democratic rule, governments correct mistakes and failures identified by citizens through their constructive criticisms and suggestions; safeguards like checks and balances are put in place to limit the excesses arising from governments' routine abuse of entrusted power; and the prevalence of real economic opportunity to all citizens and a belief in and practice of equity in society. The Kenya constitution 2010 has been promulgated to restrict the possibility of further abuse of power by those executing government functions in Kenya.

Building a democratic culture requires time and persistence. Democratic culture is the growth and development of peoples' beliefs, attitudes, habits, values and practices where the introduction of any form of dictatorship over them by those in power is rejected. It existed in pre-colonial Africa as has been shown by anthropologists, historians and Africanists in their accounts on the style and manner of dispute resolution in society. It is colonialism which disrupted this development, thereby spreading and popularizing anti-democratic and undemocratic culture which in this post-independence era is supposed to be unlearned.¹²⁷

¹²⁵ K. Kibwana, "Development of Democratic Culture and Civil Society in Africa: An Analysis of Relevant Constitutional Initiatives and Models" *Lesotho Law Journal*, Vol. 6, No 1, (1990), p. 1.

¹²⁶ Afrifa Gitonga, "The meaning and foundations of Democracy", in W. O. Oyugi and A. Afrifa (eds.), *Democratic Theory and Practice in Africa*, Nairobi, Heinemann Kenya Ltd., 1987, pp. 12-15.

¹²⁷ K. Kibwana, "Development of Democratic Culture and Civil Society in Africa: An Analysis of Relevant Constitutional Initiatives and Models" *Lesotho Law Journal*, Vol. 6, No 1, (1990), p. 4.

2.4. Transitions from Oppressive to Democratic Regime/Ethnic Violence to Peace:

Politics within a democracy is seen as a non-zero-sum enterprise where, by cooperating, all can gain when the winners are restrained from crushing the losers.¹²⁸ Cooperation is premised on the assumption that today's winners may, as coalitions shift, wish to tomorrow ally with today's losers. There is also a conviction that if conflicts degenerate into physical violence either by those in state control or insurgents, all stands to lose. This is contrasted with politics among nations which take the zero-sum line where the state's sovereignty exists at a risk. Countries do not become democracies overnight. They go through rocky transitional period, where democratic control over foreign policy is partial, mass politics mixes in a volatile way with authoritarian elite politics and where democratization suffers reversals.¹²⁹

Contemporary era has shown that partial democratization can be an occasion of aggressive nationalism and war. This has happened in two sets of countries, i.e. Serbia and Croatia; and Armenia and Azerbaijan while experimenting with varying degrees of partial electoral democracy. Russia's poorly institutionalized partial democracy has brought about tense relationships with her neighbors¹³⁰ further lending credence to the fact that the connection between democratization and conflict is not a coincidence but a reality. Even great power democracies walked the same path, i.e. Britain in 1832, France during Napoleon III era, Germany and Japan during Taisho Democracy in 1920s.

In a democracy, governments are brought to power through a contested election. Voting franchise is for a substantial fraction of citizens who popularly elects an executive if it is not responsible to the elected legislature. Therefore, in a democratic system, most powerful

¹²⁸ Ibid. p. 82.

¹²⁹ E. D. Manfield and J. Snyder, "Democratization and the Danger of War", in: Michael E. Brown, Sean M. Lynn-Jones and Steven E. Miller, *Debating the Democratic Peace*, (London: The Mit Press, 1996), p. 301.

¹³⁰ Ibid. (E. D. Manfield). 1996. p. 302.

collective decision makers are selected through fair, honest and periodic elections in which candidates freely compete for votes and in which virtually all adult population is eligible to vote. Democracy is conceptualized as representing a central pillar for peace in Western countries and in international approaches to peace building.¹³¹ Unfortunately, during elections that follow a peacemaking process, democratic systems are conceived as increasing conflictual competition which sharpens divisions and causes political instability.¹³² In the last generation of democracy, the dispute between main ideological factors in different parts of the world centered on democratic values and how they could be translated into concrete political relationship¹³³ whose end signified surrender to the forces of western values of economic and political freedom. This led to transitions where countries once ruled by autocratic systems became democratic.¹³⁴ However, Aristotle equates democracy to the predominance of the poorer classes in society and is therefore in favor of a system that could protect all classes which according to him, neither democracy at its purest form nor oligarchy at its extreme would do.¹³⁵ Democracy, therefore, is not viable in a society where vast inequality of wealth exist. Immanuel Kant on his part is convinced that “perpetual peace” can exist between or among states that share “republican constitutions”, which in contemporary understanding of democracy are values such as freedom, representative government and separation of powers that more often than not, are enshrined in such constitutions.

¹³¹ R. Paris, Peacebuilding and the Limits of Liberal Internationalism, *International Security*, Vol. 22(2), (1997), pp. 54-89.

¹³² C. A. Crocker and F. O. Hampson, Making Peace Settlement Work. *Foreign Policy*,(104), (1996) pp. 54-71.

¹³³ Alec Barbrook, Patterns of Political Behaviour, (London: Martin Robertson Press, 1975), p. 115.

¹³⁴ Bruce Russett, “The Facts of Democratic Peace”, in: Michael E. Brown, Sean M. Lynn-Jones and Steven E. Miller, *Debating the Democratic Peace*, (London: The Mit Press, 1996), p. 58.

¹³⁵ Aristotle (384-321 B.C.), in Stephen Everson (ed.), *The Politics*, New York: Cambridge University Press, 1988, p. 144.

2.5 Disputed Election Results and Coalition Governments:

In Africa, coalition governments adopted in aftermaths of disputed elections and/or electoral violence is a new phenomenon. It started in Kenya and soon after copied in Zimbabwe when the opposition boycotted the second round election complaining of violence and intimidation of supporters by state organs in 2008. The question is: where does this type fall in the dichotomy models already discussed?

In a classical post-electoral coalition, we have seen that parties generally accept the outcome of an election. This is unlike where the coalition government is formed by parties that have disputed the election results. In this type, however, the parties at the core of the dispute confederate to form a coalition government. In Kenya in 2008, Orange Democratic Movement (ODM) and Party of National Unity (PNU) were the two main disputant parties of the election results, each claiming victory, and in Zimbabwe the Movement for Democratic Change (MDC) allied with Zimbabwe African National Union – Patriotic Front (ZANU-PF) to form a coalition government after it boycotted the run-off election of 29th June 2008.

The second argument is that classical coalition government is formed to attain majority in parliament by otherwise a ruling party that has failed to secure the requisite majority needed to form a government alone. This clearly is not a factor in this typology which annuls it being labeled as a classical coalition government. Instead, it qualifies to be labeled as a consociational coalition by reason that the political expediency is to prevent the condition from degenerating into a civil war that come with negative impacts on stability and order in society to impede both economic and social development.

2.6 Conclusion:

Political instability seriously threatens the survival of the country especially in the ethnically diverse developing countries. It creates massive problems and hinders the development process. Besides, with the anticipation of disputed elections and electoral violence creeping in society, it is easy to cast doubt on the utility of elections as an instrument of political change. It would appear that the electoral violence in Kenya was not simply a function of flawed elections but a reaction to historical political and economic discontent that exploded into violence during the election. Elections ought to be viewed as a process that links a society's past with its future. Therefore, to control the threat of electoral violence in Kenya requires strategies that seek to address past injustices and prevent similar occurrences in the future.

CHAPTER THREE

KENYA'S COALITION GOVERNMENT OF 2008-2012: A CASE STUDY

3.1. Introduction:

Post-conflict Kenya dates from 2007/2008 post-election violence following the disputed presidential election vote tally and the adoption of the negotiated coalition government. A post-conflict society is one where either violence has ended or a formal peace settlement has been concluded. The common feature of this phase is that either the authority of the state has collapsed completely or a government is in place but with little legitimacy because it cannot adequately provide security and prosperity to its citizens. Many a times, conflict phases are periods of dangerous and chaotic transition as opposed to more ordered progress envisioned at the conference tables. Good governance therefore has a role to play in the rebuilding of post-conflict societies transparent, efficient and participative governance structures which help to stabilize the volatile transformation.¹³⁶ This chapter abstracts the situation in 2007/2008 and examines the transition towards the rule of law in Kenya up to 2012. It scrutinizes the roles of strategies adopted to restore order, promote reconciliation and resuscitate the economy as the pillars of a sustainable democracy.

3.2. Kenya's 2007 Elections:

In March 2007 Kenyans went to the polls to participate in the presidential, parliamentary and civic election. This was Kenya's fourth election since the reintroduction of multiparty politics in 1991. In the elections, nine candidates competed for the presidency, 2, 547 for parliamentary

¹³⁶ Tobias Debiel and Ulf Terlinden, "Promoting Good Governance in Post-Conflict Societies", Discussion Paper, Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), 2005, pp. 1-23.

seats in 210 constituencies and a total of 15,331 candidates were approved to compete in the 2,498 local wards from the statistics provided by the Electoral Commission of Kenya (ECK).¹³⁷

The party contenders for the presidency were Emilio Mwai Kibaki, Raila Amollo Odinga and Stephen Kalonzo Musyoka, each with his own complex party affiliation. Kibaki reconstituted his coalition that he branded the Party of National Unity (PNU), Odinga and other leaders including Kalonzo formed ODM-K but towards the election date disagreed on the mode of nomination for the party torch bearer which led them to go separate ways; Kalonzo remaining with ODM-K while Odinga won back the moribund ODM from party officials who were considered not to be very keen mainstream opposition.¹³⁸ The race, which was closely fought by Kibaki and Odinga, was the first election in Kenya's history to pit a Kikuyu against a Luo.¹³⁹ Both Odinga and Kibaki took positions that played on their policy strengths, highlighting differences over relevancy and solutions. While appealing to Kenya's wealthier and growing urban middle class, Kibaki touted his performance in achieving a strong economic growth rate. Odinga fashioned a more populist message in which he charged that Kibaki was only helping the rich leaving the poor in the country with no one to help them and so was offering himself as their hope.

A number of observers, including key advisors of the president, acknowledged that President Mwai Kibaki and his party would lose in the election. This heightened the anticipation of defeat. The prediction however, was proved incorrect when the results were released declaring Kibaki the winner of the 2007 elections.

¹³⁷ T. Dagne, "Kenya: The December 2007 Elections and the Challenges Ahead", Congressional Research Service Report Prepared for Members and Committees of Congress, United States, 2008, p. 2.

¹³⁸ C. Gibson and J. Long, "The presidential and parliamentary elections in Kenya, December 2007", *Journal of Electoral Studies*, (2008), pp. 1-6: 2.

¹³⁹ J. Horowitz, "Power-sharing in Kenya". Centre for the Study of Civil War, PRIC. CSCW POLICY BRIEF, University of California, San Diego (UCSD), 2008. [Online]. Available: <http://www.prio.no/sptrans/1593447654/Kenya%20Policy%20Brief.pdf> [03 July 2010], p. 3.

3.2.1 Sources of Violence in Kenya:

According to Mueller, a good deal of the statistical work in the political economy literature on conflict argues persuasively that conflict, particularly civil war, is often driven mainly by greed rather than grievance.¹⁴⁰ The conflict in Kenya which arose from the disputed presidential elections seems to have had roots in inequality, poverty, poor governance and a host of other issues. However the major underlying issue was clearly the perception of deliberate unfairness and inequality in the distribution of national resources. These perceptions have a basis in the real practice of successive governments in Kenya. It is also arguable that beyond the real biases in resource allocation was the widespread failure of the state due to deliberate policies of retreat compounded by unchecked corruption during the structural adjustment programmes period.¹⁴¹

Poverty has progressively been deepening as the state gradually reduced its provisioning of social services. This retreat of the state coincided with the slow and persistent decline that characterized the country's economic performance from the 1980's until the turn of the century. Some disagree, but from the standpoint of the elite in Kenya, many of whom already owned large tracts of land in the Rift Valley and elsewhere, greed for political power appears to have been the motivating factor in the face of multi-party elections in 1992 and 1997.¹⁴² There is an apparent connection between power and wealth in Kenya. This is depicted by the tendency of the ruling elite who undermine the poor by their monetary interests which combine with politics to alienate political actions from the needs and demands of ordinary people and in the process

¹⁴⁰ S. D. Mueller, "The Political Economy of Kenya's Crisis", *Journal of Eastern African Studies*, Vol. 2 (2), (2008), pp. 185 -210:191.

¹⁴¹ The IMF Policies and Their Impacts on Education, Health and Women's Rights in Kenya. "The Fallacies and Pitfalls of IMF Policies, (Nairobi: AAIK, 2009), p. 26. Available at www.actionaid.org/sites/files/actionaid/aaik_imf_policies.pdf, accessed on September 4, 2013.

¹⁴² Ibid

hamper genuine democratic forms of leadership.¹⁴³ One of the resource sectors which the elite in Kenya have taken advantage of is the agricultural sector.

Agricultural production which is concentrated in the highlands is an important factor in Kenya's economy. Kearney argues that members of the Kikuyu community have managed to dominate business and politics for decades now because they were favored by the colonialists for a long time.¹⁴⁴ Thus the accumulation of wealth by this ethnic group during the colonial era created economic imbalances in post-colonial Kenya. This makes the economic factor to be regarded as a formative cause of violence. Sphetfo opines that in Kenya, the ethnic class that has historically accumulated more wealth ensures that the goods and resources are kept within their ethnic domain.¹⁴⁵ Then, the question is: Could this be the reason why the Kalenjin and Kikuyu communities do not want to let go the political power to a different ethnic group which persists to date?

The monopoly of national resources by some ethnic groups at the expense of others generates socioeconomic inequalities that can ultimately initiate a corresponding ethnic and class antagonism. An unequal allocation of resources in Kenya began with colonialism and has over the years been replicated by successive post-colonial governments with political power as the deciding factor of who gets what, when, and how. In this regard, Lasswell was right when in 1934 he suggested that, ".....politics is the study of who gets what, when, and how."¹⁴⁶ The "what" of politics, according to him, deals with outcomes referred to as "'wants' 'drives' 'wishes' 'predispositions' or 'demands' of the individual concerned" and the "how" of politics relates to the

¹⁴³ S. L. Kearney, *"The Quest For Hegemony: Kenya, Kanu and The 1997 Elections Within The Context of African Statehood, Democratization and Civil Societies in Embryosis"*, (unpublished Masters Dissertation, University of Natal, 1999) p. 49 -50

¹⁴⁴ Ibid, p. 99.

¹⁴⁵ N. D. Sphetfo, *"Power-sharing agreement, 2008: A consociational formula?"*, (unpublished Masters Dissertation, University of KwaZulu-Natal, 2010) p. 33

¹⁴⁶ Harold, L. D., [1934], *World Politics and Personal Insecurity*. Reprinted in *A Study of Power*, (Glencoe, IL: The Free Press, 1950) p.3

strategy of politics defined as "the management of value assets in order to influence outcomes".¹⁴⁷

The resultant effects of political decisions on socioeconomic inequalities prompted Warah to highlight observations that about ten percent of the Kenyan population controls forty two percent of the nation's wealth, leaving nearly half the population to subsist below the poverty line.¹⁴⁸ In a survey conducted on a total of 169 countries, Kenya was ranked 103 in the list of inequality which placed it at position 66 of the most unequal countries in the world.¹⁴⁹ Another report by the United Nations Development Programme (UNDP) in 2010 on the quality of life across the globe says up to 60 per cent of Kenyans live in poor conditions with no access to quality education and health services, while a further 23 per cent are on the borderline of poverty.¹⁵⁰ This finding was part of 2010 Human Development Index (HDI) which uses a wide range of parameters such as life expectancy, access to clean water and the number of years spent in the pursuit of formal education to measure the standard of living in every country. Inequalities within cities such as Nairobi are very clear to the residents who are of diverse ethnic groups living in the capital's slums that are rated as the biggest and most deprived slums in the world.¹⁵¹ These residents serve some of the wealthiest homes on their neighborhoods as employees.

Ethnicity can also be highlighted as the source of violence because in Kenya, the eruption of violence was "...a political matter of ethnicity and representation".¹⁵² McGee argues that

¹⁴⁷ Ibid, p. 201 – 204.

¹⁴⁸ R. Warah, "Not Ethnic cleansing, but Class war'- Kenya's violence is rooted in its economic and political inequalities", *Mail and Guardian*, 11-17 January, 2008, p. 12.

¹⁴⁹ Kenya ranked 103 in the list of inequality out of the total of 169 countries surveyed – making it the 66th most unequal country in the world.

¹⁵⁰ UNDP, Human Development Report, *The Real Wealth of Nations: Pathway to Human Development*, New York UNDP, 2010, p. 142.

¹⁵¹ Ibid.

¹⁵² Shane McGee, *Ethnic Division and Electoral System Design: Prospects for Reform in Kenya*, *William and Kanthy Hybl Democracy Studies, Josef Korbel School of International Studies*, University of Denver. July-August 2008, p. 18.

enhancing administrative procedures can improve electoral efficiency to enhance proportional representation which can curb the possibility of violence erupting.¹⁵³ Therefore, a situation where the electoral system is skewed in order not to yield a better representation exacerbates violence. This was the case in Kenya in 2007/2008 and indeed the 2008 ‘Agreement on the Principles of Partnership of the Coalition Government’ recognized in its preamble that there was a crisis in the country that needed a remedy. The perceived unequal allocations of state resources also generated hatred and vendettas amongst different ethnic groups. Arguably, violence was inevitable as a result of the differences and inequality created between ethnic communities.

3.2.2 Power-Sharing in Kenya:

Although the post-election violence of 2008 served as a catalyst for a power-sharing deal, debates about power-sharing in Kenya predate the deal by several decades. The first demands for power-sharing institutions were made by British settlers prior to independence. Kenya was born in 1963 with a power-dividing, federal constitution that included provisions for elected regional bodies in each of the eight provinces.¹⁵⁴ This governance structure did not last because it was undermined by being suffocated of funds from the central government. Power sharing deal was realized on 28th February 2008 within the framework of Kenya National Dialogue and Reconciliation (KNDR) when the Government/PNU and ODM, under the auspices of the African Union Panel of Eminent African Personalities chaired by Kofi Annan, signed the ‘Agreement on the Principles of Partnership of the Coalition Government’. This led to the enactment of the National Accord and Reconciliation Act 2008 as the roadmap for ending the political crisis. It was unanimously passed by parliament.¹⁵⁵ Under this peace agreement, a

¹⁵³ Ibid

¹⁵⁴ Republic of Kenya, The 1963 Kenya Constitution (Independence Constitution) Articles 91 and 92, (Nairobi: Government Printer)

¹⁵⁵ J. D. Barkan, *Will the Kenyan Settlement Hold?*, Current History, (2008), p. 153.

“peace cabinet” of 40 ministers and 50 assistant ministers was named. However, parties differed on a number of own demands as illustrated in the table below.

Table 1: Provisions of the Power-Sharing Agreement

Unanimity rules	None in legislative arena. In the Cabinet, appointments and removals must be approved by both parties.
Grand coalition	Yes
Fixed equality of representation among different groups	No, except that Cabinet positions and top administration posts will be shared evenly by the two main political parties. No specific provisions for particular ethnic or religious groups.
Proportionality in election results	No. Kenya retains a presidential system with first-past-the post constituencies for Parliament.
Proportionality in government appointments, contracts, rewards	Yes, only with regard to higher-level appointments. No specific provision for lower-level appointments in civil service, contracts, or other rewards.
Federalism	No
Group autonomy provision, for example with respect to legal regulations, education, or religious matters	No
Guarantees of individual liberties	No new provisions added above those already contained in the existing constitution.
Power-dividing rules (restricting the government from regulation of certain policy areas, such as religious practices, language)	No
Wealth-sharing	No
Sunset (temporary) provisions with respect to any aspects of power-sharing	Yes. The coalition government will be dissolved if the tenth parliament is dissolved; if the parties agree in writing; or if one coalition partner withdraws from the coalition.

Source: Horowitz (2008:9)

The establishment of coalition government was not, however, an end in itself. It was formed as a response to the political crisis that had threatened the existence of the country. The coalition,

therefore, was formed as a means to an end. It was formed to provide a means to implement broad reforms, including those that would address the factors responsible for the conflict just witnessed. The KNDR framework identified four main agenda items that were critical for this purpose (see details under section 3.3 below). Monitoring the progress in the reforms agenda was likewise important for assessing the successes and challenges with a view to providing lessons that can keep the country on the reform path. One complex challenge, it is argued, was the more than 32 times amendment to Kenya's post-independence constitution¹⁵⁶ that transformed the country from a British dominion to a republic, from a parliamentary system to a predominantly presidential system, from a quasi-federal system to a unitary system and from a multi-party system to a de-jure one-party state.¹⁵⁷ These successive changes are thought to be the ones that entrenched the culture of impunity in Kenya that could not easily be overcome. The fight against this culture apparently began in the 1990s to forcibly culminate into the 2007/2008 post-election violence¹⁵⁸ as a way to bring about the much needed yet fiercely resisted change to the changes to occur.

3.3. The National Accord and Implementation:

Following the disputed presidential election results in December 2007 and the subsequent unprecedented wave of violence in several parts of the country, Kenya needed political stability in order to move forward as a unitary state. The violence had quickly spread and transformed into an ethnic conflict with the potential to grow into a civil war as both the Government/Party of

¹⁵⁶ Republic of Kenya, *Report of the Commission of Inquiry on Post-Election Violence (CIPEV)*, (Nairobi: Government Printer, 2008b) p. 28.

¹⁵⁷ Law Society of Kenya (LSK) Standing Committee on Constitutional Review *Final Report*, (Nairobi, 2006), p. 13.

¹⁵⁸ Republic of Kenya *Report of the Commission of Inquiry on Post-Election Violence (CIPEV)*, (Nairobi: Government Printer, 2008b), p. 34.

National Unity and the main opposition political party, the Orange Democratic Movement (ODM), hardened their positions.

The return of the situation to normalcy was achieved within the framework of the Kenya National Dialogue and Reconciliation (KNDR). The government launched this dialogue process on January 28, 2008 under the mediation provided by the Panel of Eminent African Personalities to resolve the 2008 political crisis and start the process to address the underlying political and governance weaknesses. The goal of the dialogue was to promote sustainable peace, stability, and justice in Kenya through the rule of law and respect for human rights. Kofi Annan, former Secretary General of the United Nations led the panel which included former Tanzanian President Benjamin Mkapa and Graça Machel, former first lady of South Africa and Mozambique.

The KNDR struck a deal translating into the National Accord which fundamentally transformed Kenya's governance framework by laying the foundation for power sharing to save the country from the crisis. The National Accord provided for the creation of the Cabinet that consisted of the president, vice-president, prime minister, two deputy prime ministers, and 42 other appointed ministers. The Prime Minister, besides having a distinct portfolio was bestowed with the responsibility of coordinating the reform agenda and supervising ministries. The PM was also to be accountable to the President and was given immunity from civil or criminal prosecution.

Opinion on how to move the process forward, especially on reform agenda, was divided. Whereas the coalition government was established in order to steer the reform agenda, some organizations (the Universal Declaration on Human Rights, the 1976 International Covenant on Civil and Political Rights and the African Charter on Human and People's Rights) having

suffered serious abrogation, wanted in place of the coalition government the establishment of a transitional government to oversee the reconstruction of the country and carry out transitional justice process.¹⁵⁹ The argument advanced for this kind of undertaking was that it would embark on implementing the sections of the interim constitution of Kenya (2008) to transform governance; facilitate the completion of comprehensive review of the constitution and oversee the formulation and implementation of a responsive National Land Policy to resolve the generational land question in Kenya. This latter option was rejected.

The KNDR framework identified four main agenda items for the purpose of ending the crisis. These are: Agenda 1: Immediate action to stop violence and restore fundamental rights and liberties; Agenda 2: Immediate measures to address the humanitarian crisis, promote reconciliation, and healing by resettling the internally displaced Kenyans who have systematically been ignored by the authorities and the settlement of the many homeless and landless Kenyans called squatters in their country. These Kenyans, some displaced resulting from past politically instigated clashes of 1992-3/1997-8 and over the years needed to finally get reprieve; Agenda 3: How to overcome the political crisis; and Agenda 4: Address long term issues, including constitutional, legal and institutional reforms; land reforms; tackling youth unemployment, tackling poverty, inequity and regional development imbalances, consolidating national unity and cohesion, and addressing impunity, transparency and accountability.

The parties to the KNDR agreed to establish a number of institutional frameworks to deal with the different aspects that presumably led to the crisis. These included establishment of an Independent Review Commission on the General Elections held on 27th December 2007;

¹⁵⁹ All rights, liberties, both civil and political as well as economic were factored in the Constitution of Kenya (2010) Chapter IV on the Bill of Rights. See The Constitution of the Republic of Kenya 2010, section 10-59. Declaration on Human Rights (UDHR), the 1976 International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples Rights.

establishment of a Commission of Inquiry into Post-Election Violence; establishment of a Truth, Justice and Reconciliation Commission; and the review of long-term issues and pursuit of a constitutional review process.

3.3.1 Short-term Stability:

Kenya as a society and her almost collapsed economic base badly needed political stability to get back on feet. This was only guaranteed by not only the formation of Grand Coalition Government but also its holding together as the lifeline of that political stability. The dilemma faced in the implementation process was the tensions between the core issues of short-term and long-term stability. Both short-term and long-term issues required immediate attention. Short-term measures were hinged to agenda items 1 – 3 while long-term measures largely fell on agenda item 4. The viability of the coalition government, given the circumstances and mechanism for its establishment, remained in doubt during early stages. One partner in this coalition, due to past experiences (with President Daniel Moi and Mwai Kibaki), adopted a more cautious and reserved approach on emerging issues. For example in this coalition government, the prime minister's powers were unclear which made hardliners within the PNU elite to fiercely continue protecting the powers of the presidency. Despite the turbulence, the resolve to achieve political unity and cooperation was essential.

The short-term stability was achieved through adoption of coalition government. It remained fragile for the better part of the period of study because the accommodation among political elites did not address the deeply felt frustrations and grievances among the Kenyan society on underlying causes that fueled the crisis. The political elite's perception seemed to suggest that they were contented with the power-sharing arrangement, making the political unity enjoyed to do little to restore the confidence of Kenyans in the integrity of their democracy and the utility of

a peaceful and rule-governed political expression. But the power-sharing established was not supposed to be seen as an end in itself, but a means for the Kenyan polity to right itself, reorganize its systems, and regroup for a return to democratic governance. Without progress on reforms to strengthen the rule of law and enable Kenyans address the underlying tensions and structural inequities in their society, power-sharing was of no help to the country in avoiding similar crises in the future.¹⁶⁰

3.3.2 Long-term Stability Issues:

With regard to the issue of long-term stability, Annan's fourth agenda item presented another set of challenges forming the final aspect of implementation. The agenda called for measures to address the underlying causes identified as "poverty, the inequitable distribution of resources and perceptions of historical injustices and exclusion of part of the segments of Kenyan society." It envisioned measures to address constitutional, legal and institutional reforms as the mechanism for tackling poverty and inequality as well as combating regional development imbalances; tackling unemployment particularly among the youth; consolidating national cohesion and unity; undertaking a land reform; and addressing transparency, accountability and impunity. The institutional/structural part of this implementation was anchored in the constitution promulgated in 2010. Chapter XV of the Constitution establishes Commissions and Independent Offices among them, the National Land Commission, the Independent Electoral and Boundaries Commission, the Judicial Service Commission, The Commission on Revenue Allocation and the National Police Service Commission that relates to issues requiring attention. For example, in Chapter XII of the Constitution of Kenya (2010), principles of public finance are enumerated as

¹⁶⁰ See the findings and recommendations of the three investigatory commissions: Republic of Kenya, *Report of the Independent Review Commission on the General Election Held on 27 December 2007*, (Nairobi: Government Printer, 2008(c)); Republic of Kenya *Report of the Commission of Inquiry on Post-Election Violence (CIPEV)*, (Nairobi: Government Printer, 2008b); and Republic of Kenya, *Report of the Truth, Justice and Reconciliation Commission*, Vol. IV Chapter One, Truth, Justice and Reconciliation Commission (TJRC) Kenya, 2013.

openness and accountability, promotion of equitable society, prudence in management and equity between present and future generations in terms of sharing burdens and benefits of borrowing. It also establishes an Equalization Fund into which one half percent of all revenue collected in every financial year shall be paid. This money is to be used by the national government for provision of basic services to marginalized areas for purposes of bringing quality of services in those areas to the level enjoyed by others. The allocation of public finances is undertaken with input from the Commission on Revenue Allocation.

In dealing with the grinding poverty afflicting millions of Kenyan youths, women and men across the country, the government set up major national development projects to address rural and urban poverty including major housing projects that has remained elusive despite the efforts. The efforts have occasionally been thwarted by emergency issues cropping up here and there from both natural and manmade calamities like famine caused by draught, floods in lower basins of major rivers (Tana, Nzoia, Sondu etc.), fires, tribal/inter-clan fighting and recently the military adventure in Somalia that have had negative effects of diverting money meant for development projects to mitigate them. In dealing with the pervasive inequalities in Kenya, the coalition government enhanced the development fund provided under the Constituency Development Fund (CDF) Act No. 10 of 2003 introduced as a strategy designed to support constituency-level grass-root development projects for reforming and empowering the people in its administration which has been increased from a mere 2.5-3% of the Budget to 10% percent of the Budget.¹⁶¹

The first aspect of implementation began with the National Accord which was placed in the hands of the review committees. The first of the three investigatory committees to get underway was the Independent Review Committee headed by former South African judge Johann Kriegler.

¹⁶¹ Republic of Kenya, *The Constituencies Development Fund Act, 2013*, Kenya Gazette Supplement No. 45 (Acts No. 30), Nairobi: Government Printer.

It was charged with looking at electoral fraud during the election by analyzing the constitutional and legal framework to establish the basis for the conduct of 2007 elections, examining the organizational structure, composition and management of the ECK to assess its independence, capacity and functioning, investigating the vote counting and tallying, and assessing the functional efficiency of the ECK. This was meant to propose recommendations on electoral reform on constitutional, legislative and operational aspects. It issued its report in September 2008 stating that it was not possible to conduct a re-count of the ballots in order to determine who actually won the 2007 election as the data was irretrievably polluted.¹⁶² The committee recommended for the overhaul of the electoral system which included anchoring of the right to vote and to be elected in the Constitution's Bill of rights, consolidating all laws relating to operational management of elections into one statute and establishing of a special Electoral Dispute Resolution Court to handle appeal matters.¹⁶³ This led to establishment of the current independent electoral system under the umbrella of the Independent Electoral and Boundaries Review Commission (IEBC) and the Supreme Court.

The second committee was the Commission of Inquiry on Post-Election Violence headed by Justice Philip Waki. Its mandate was to examine the sources and perpetrators of the post-election violence. The committee completed its work in October 2008 and issued a report providing a detailed account of the post-election violence, including a list of alleged perpetrators.¹⁶⁴ Some of its recommendations which were to be implemented under the auspices of the Panel of Eminent Personalities acting in consultation with the President and the Prime Minister of Kenya included:

¹⁶² Republic of Kenya, *Report of the Independent Review Commission on the General Election Held on 27 December 2007*, (Nairobi: Government Printer, 2008(c)).

¹⁶³ *Ibid.*

¹⁶⁴ Republic of Kenya, *Report of the Commission of Inquiry on Post-Election Violence (CIPEV)*, (Nairobi: Government Printer, 2008(b)).

the setting up of a special tribunal as a court to try persons found bearing greatest responsibility for crimes against humanity related to the 2007 elections, fast-tracking of International Crimes Bill 2008 and the Witness Protection Act 2008 to facilitate investigations and prosecution of crimes against humanity and protect all witnesses in the cases, and finalizing the development and application of the National Security Policy as articulated in the KNDR under agenda item 4 and First Medium Term Plan (2008-2012). There was a further specific recommendation to reform the police by establishing the Independent Police Conduct Authority. The report required the Grand Coalition government within sixty days to establish a tribunal to put on trial the alleged perpetrators, or the list be handed over to the International Criminal Court (ICC). The government failed in meeting the deadline and the list was handed over to the chief mediator in the Kenyan crisis, Kofi Annan, who presented it to the then ICC prosecutor Luis Moreno Ocampo to institute criminal proceedings. As a result, to date three Kenyans are facing trial in ICC, among them the president of the republic of Kenya and his deputy.

The third committee was the Truth, Justice and Reconciliation Commission which at initial stages faced a myriad of challenges including the suspension of its chairperson on integrity issues. It was mandated to investigate human rights abuses committed between 1963 and 2008 to provide a window to individuals or institutions accused of injustices and human rights abuses to confess and apologize to victims so that forgiveness and reconciliation can be realized. It, however, finished its report on 3rd May 2013 and handed it over to the president for approval and implementation of recommendations. It is yet to be made public, but its findings relating to this study include: ...between 1963 and 1978, President Jomo Kenyatta presided over a government that was responsible for illegal and irregular acquisition of land by the highest government officials and their political allies and the political assassinations of Pio Gama Pinto, Tom Mboya

and J.M. Kariuki; between 1978 and 2002, President Daniel Arap Moi presided over a government that was responsible for assassinations, including that of Dr. Robert Ouko, illegal and irregular allocations of land; and economic crimes and grand corruption;¹⁶⁵ between 2002 and 2008, President Mwai Kibaki presided over a government that was responsible for economic crimes and grand corruption and extra judicial killings; and that minority groups and indigenous people suffered state-sanctioned systematic discrimination during the mandate period. In particular, minority groups have suffered discrimination in relation to political participation and access to national identity cards. Other violations that minority groups and indigenous people have suffered include: collective punishment, and violation of land rights and the right to development.¹⁶⁶ The Commission, therefore, recommends that the President, within six months of the issuance of the Report, offer a public and unconditional apology to the people of Kenya for all injustices and gross violations of human rights committed during the mandate period, and that the government makes a declaration in terms of article 34(6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights thus allowing individual victims of human rights violations who have exhausted local remedies to directly access the African Court.¹⁶⁷

3.4. The Consociational and Centripetal Elements in Constitution of Kenya (2010):

In August 2010 both President Kibaki and Prime Minister Odinga backed in principle a new constitution after all the ups and downs since 2008 in the reform agenda. Kenyans were to vote either for or against the new constitution which intended to provide a peaceful resolution to ethnic disputes. The referendum was divided into two campaigns, the “Yes” campaign seeking to

¹⁶⁵ Republic of Kenya, Report of the Truth, Justice and Reconciliation Commission, Vol. IV Chapter One, Truth, Justice and Reconciliation Commission (TJRC) Kenya, 2013, p. 7 available as a pdf at <http://www.tjrkenya.org>

¹⁶⁶ Ibid, p. 8

¹⁶⁷ Ibid, p. 9-10.

win the referendum and the “No” campaign which meant a vote against the proposed new constitution. The constitution was eventually accepted by more than 4.1 million voters.

3.4.1 Consociational Elements:

This constitution contains provisions on consociational elements in the form of grand coalition (executive power-sharing); proportional representation; segmental autonomy; and minority veto as envisaged principles critical for addressing the crisis in the country in future.

Executive power-sharing as one of the main elements of consociational model is one in which each of the main communities have a share in the executive which is constituted in accordance with representation as the main principle of democratic governance. It generally entails including in government the linguistic, ethnic and religious parties, councils and committees as evidently done in Netherlands; cabinets in Belgium, or a specified top government position (Presidency, Premiership or Assembly Speakership) to a specified ethnic or religious group, as espoused by Lijphart.¹⁶⁸ A grand coalition is the strong power sharing character of public policy-making, which is argued to largely result from the exceptionally numerous and powerful institutional checks and balances. It is usually formed during times of crisis and similarly strengthened for achieving unity and stability during critical transition periods.¹⁶⁹ The grand coalition government of Kenya was formed along party lines. This seems to add a new type of example to the existing ones as given by Lijphart above. Although the striking feature of party formations in Kenya is informed by a sense of ethnic identity, strictly speaking they are not ‘ethnic’ as both the old and now the new constitutions of Kenya prohibit political parties being founded on ethnic basis. Article 91 (2) (a) thus states: “A political party shall not be founded on a religious, linguistic, racial, ethnic, gender or regional basis or seek to engage in advocacy of hatred on any such

¹⁶⁸ A. Lijphart, “The Puzzle of Indian Democracy: A Consociational Interpretation” *American Political Science Review*, Vol.90 (2) (1996), pp. 258-268:259.

¹⁶⁹ Ibid.

basis.” By this section, parties are compelled to have at least a national outlook or be forced by law to dissolve.

Proportional representation’s main purpose, as already argued, is “... to enable government decisions to be influenced according to the approximate numerical strength of the most important social groups and to allow civil service appointments and public financial resources to be allocated according to the same principle”.¹⁷⁰ This purpose qualifies the argument by Lewis that “[o]ne of the advantages of proportional representation is...to promote coalition government [which] is a frequent, but not necessary outcome”.¹⁷¹ Kenya uses a plural-majority electoral system and a majoritarian democracy in which members of parliament are voted directly from their constituencies. This typology of system “gives more emphasis to local representation via the use of small, single-member electoral districts as opposed to proportionality. Amongst such systems are plurality (first-past the-post), runoff, block and alternative vote systems”.¹⁷² In Kenya, the minorities are regionally based and geographically separated in terms of main areas of ethnic settlements. This geographical demarcation and social segmentation, provides grounds for consociational scholars to argue that parliament in Kenya is organized along relatively proportional lines. According to the Constitution of Kenya (2010), the elections for seats in parliament is provided for under Articles 97 (1) (c) and 98 (1) (b), (c) and (d), and for the members of county assemblies under 177 (1) (b) and (c), which stipulates that it shall be on the basis of proportional representation by use of party lists.¹⁷³

¹⁷⁰ D. Berg-Schlosser, “Elements of Consociational Democracy in Kenya”, *European Journal of political Research*. Vol. 13 (1), (1985) pp. 95-109: 101.

¹⁷¹ A. W. Lewis, “*Politics in West Africa*”, (Connecticut: Greenwood Press, 1965) p. 79.

¹⁷² B. Reilly, “Government Structures and Electoral System”, Australian National University, Canberra, (2003) Available: <http://www.cic.nyu.edu/peacebuilding/oldpdfs/E20GovtStructureElectoralSystemsReilly.pdf>. 15 June 2013.

¹⁷³ Republic of Kenya, The Constitution of Kenya 2010, Article 90, clause 1, (Nairobi: Government Printer)

The national outlook of the country in terms of proportional representation shows no significant element of federalism because Kenya is constitutionally a unitary state. Regions in Kenya do not have their autonomy, instead by way of compromise; the electoral boundaries reflect ethnic diversity of the people. The IEBC is responsible for conducting and supervising elections for seats provided for by ensuring each party list reflects the regional and ethnic diversity of the people of Kenya.¹⁷⁴ The composition of the national executive likewise reflects regional and ethnic diversity of the people of Kenya;¹⁷⁵ so is the command of the Defense Forces¹⁷⁶ and the National Police Service.¹⁷⁷ Prior to the 2010 constitution of Kenya, proportional representation applied to the general allocation of portfolios. This was in accordance with clause 4 (3) of the National Accord and Reconciliation Act which states: “The composition of the coalition government shall at all times reflect the relative parliamentary strengths of the respective parties and shall at all times take into account the principle of portfolio balance”. However, in the power-sharing agreement of 2008, the two main parties did not agree to a fixed equality of representation among different groups. They merely agreed that posts should be shared evenly by the two main political parties and this only applied to cabinet positions and top administration posts.

As observed from the arguments, the composition of the Grand Coalition and the limited extent to which the principle of proportional representation is applied, power sharing is more a matter between two dominant parties and their leaders than it is about securing the representation and welfare of minority groups, ethnic or otherwise.

¹⁷⁴ Republic of Kenya, The Constitution of Kenya 2010, Article 90, clause 2(c), (Nairobi: Government Printer)

¹⁷⁵ Republic of Kenya, The Constitution of Kenya 2010, Article 130, clause 2, (Nairobi: Government Printer)

¹⁷⁶ Republic of Kenya, The Constitution of Kenya 2010, Article 241, clause 4, (Nairobi: Government Printer)

¹⁷⁷ Republic of Kenya, The Constitution of Kenya 2010, Article 246, clause 4, (Nairobi: Government Printer)

With regard to segmental autonomy, defined by Lijphart as the “rule by the minority over itself in the area of the minority’s exclusive concern”¹⁷⁸, it is a self-government in which each group enjoys some significant measure of autonomy, particularly in the area of cultural concerns. Some of the features that may distinguish one group from another are language, religion and cultural practices. Kenya is a unitary state that has preserved its geographical separation of ethnic groups in much of her rural areas. For example, the North Eastern region is dominated mostly by the Somali-speaking people; Rift Valley by the Kalenjins; Central by the Kikuyu; and Nyanza by the Luo, leaving only few areas with a mixture of different ethnic groups. The constitution provides for such to thrive such as article 44 on language and culture which states:

- (1) Every person has the right to use the language, and to participate in the cultural life, of the person’s choice.
- (2) A person belonging to a cultural or linguistic community has the right, with other members of that community—
 - (a) to enjoy the person’s culture and use the person’s language; or
 - (b) to form, join and maintain cultural and linguistic associations and other organs of civil society.
- (3) A person shall not compel another person to perform, observe or undergo any cultural practice or rite.

Arguably, the on-course implementation of devolution of political power is expected to be a major step forward in empowering distinct ethnic groups in their regions in approximation to consociational model. For example the minorities are proportionally now represented in county assemblies and the executive. This system is proving to be a significant shift towards aspects of consociationalism and if managed properly could be a panacea to community feelings of exclusion from political power.

The application of the minority veto is not formalized in most power-sharing democracies, but Lijphart contends that “power-sharing democracy usually consists of merely an informal

¹⁷⁸ A. Lijphart, “*Democracy in Plural Societies*”, New Haven and London: (Yale University Press, 1977) p. 41.

understanding that minorities can effectively protect their autonomy by blocking any attempts to eliminate or reduce it.”¹⁷⁹ The minority veto is described by Lemarchand as “the ultimate weapon that minorities need in order to protect their vital interests and which works best when it is not used too often and only with regard to issues of fundamental importance”.¹⁸⁰ An example of informal veto is found in the 1965 agreement within the Indian politics¹⁸¹ in which it is stated:

The informal veto in Indian politics is the 1965 agreement by the central government that Hindi would not be made the exclusive official language without the concurrent approval of the major non-Hindi speaking regions, in effect giving a veto to the southern states, which had opposed dropping English as a language of administration. The provision works best if the minority veto does not have to be used very often in order to protect minority rights and autonomy, and this has been the case in India.

In Kenya, there is so far, no formal institutionalization of consociational minority veto element, although the history of post-colonial Kenya indicates the presence of an informal minority veto regarding land rights in traditional areas of settlement.¹⁸² In Busia and Teso districts, for example, the inhabitants are believed to have historically acquired land rights and thus deserve to protect themselves from majority decisions.¹⁸³ A second instance of informal minority veto may arguably be traced in the distinction between the church and state and also a commitment to freedom of conscience, religion, belief and opinion as fundamental human rights in the both successive constitutions of Kenya.

¹⁷⁹ A. Lijphart, “The Puzzle of Indian Democracy: A Consociational Interpretation” *American Political Science Review*, Vol.90(2) (1996) pp. 258-268:261

¹⁸⁰ R. Lemarchand, “Consociationalism and Power Sharing in Africa: Rwanda, Burundi, and the Democratic Republic of the Congo”, *African Affairs*, Vol. 106 (422), (2006) p.3.

¹⁸¹ *Ibid.*

¹⁸² D. Berg-Schlusser, “Elements of Consociational Democracy in Kenya”, *European Journal of political Research*. Vol. 13 (1) (1985) p. 103

¹⁸³ E. Miguel, and Gugerty M. K., “Ethnic diversity, social sanctions, and public goods in Kenya”, *Journal of Public Economics* 89, (2005). pp. 2325–2368.

3.4.2 Centripetal Elements:

With regard to the system of governance, the Constitution of Kenya establishes a presidential system whereby candidates will compete through a presidential election. The president is directly elected through a qualified plurality in elections held concurrent to parliamentary election. The successful candidate has to win both the overall plurality and a minimum percentage of votes from a minimum number of regions.¹⁸⁴ According to the constitution, the electoral system does not rely on creating incentives for cross-ethnic vote-pooling. There is no form of alternative vote either. The constitution establishes a form of incentive for the presidential candidates to moderate their positions and appeal to several ethnic groups.¹⁸⁵ Thus, since the presidential system adhere to the centripetal ideals of creating incentives for moderation; the electoral system cannot be regarded as purely consociational. Another trace of centripetalism is in political party system which prohibits parties founded along ethnic divide.¹⁸⁶

In respect to devolution, the Constitution recognizes and constantly reminds that Kenya is a unitary national state. It stresses the importance and argues that the primary object of devolution is “to foster national unity by recognizing diversity.”¹⁸⁷ It also provides the national government with considerable power over the construction of the Counties, whereby the national assembly together with the senate can alter the borders of the Counties based on a number of principles¹⁸⁸ as the president is reserved the powers to suspend a County government in times of crisis.¹⁸⁹ This amount to serious restrictions on the regional autonomy which water down consociational ideal

¹⁸⁴ Republic of Kenya, The Constitution of Kenya 2010, Article 138 (4) (a) – (b), Nairobi: Government Printer

¹⁸⁵ M. Chege, Kenya: Back From the Brink? *Journal of Democracy*, Vol.19 (4), (2008), p. 128.

¹⁸⁶ Republic of Kenya, The Constitution of Kenya 2010, Article 91 (2) (a), Nairobi: Government Printer

¹⁸⁷ Ibid, Article 174 (b).

¹⁸⁸ Ibid, Article 188

¹⁸⁹ Ibid, Article 192

and mildly brings in the ideals of centripetalism. The task, after promulgation of the 2010 constitution, of implementation is enormous and is what we now turn to.

3.5 The Implementation of the Constitution:

By strengthening the institutional basis of policy-making, the Constitution of Kenya (2010) laid a sound foundation from which economic inequalities, regional disparities and marginalization can be addressed. This Constitution provides a solid legal and institutional framework for the recognition and protection of the rights of minorities and those of marginalized groups. It does this through its rights-based approach to development, where everyone is entitled to development as a right. Chapter IV of the Constitution of Kenya 2010 on the Bill of Rights, for example, provides a framework for affirmative action that ensures that minorities and the marginalized are brought up to speed in social, economic and cultural development.

Prior to the promulgation of the Constitution, there was no formal system of determining the manner in which public funds would be allocated. For example, planning, budgeting and spending of government finances were mainly the preserve of the Ministry of Finance, Ministry of Planning and National Development, and a few stakeholder institutions. Due to the centrality of the executive arm of the government in the formulation, planning, implementation and the auditing of public expenditures, members of the cabinet and senior government officers used to have a lot of discretion to (mis)use to unfairly benefit certain areas.

The Constitution assumes that for public expenditure to be an effective tool for reducing inequality, it should be skewed in favor of districts that have high levels of poverty. That is, there should be a form of equalization or affirmative action directed at the regions and groups that are less resource-endowed to hasten their development. This, however, raises a fundamental question

about equity, distribution and efficiency as to how the government is to resolve the conflict between fair distribution of resources and a need for efficient production. Chapter IV of the constitution section on equality and freedom from discrimination categorically, states that women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.¹⁹⁰ In addition, discrimination on account of sex either by the state or by an individual is also outlawed. Article 250 of the Constitution of Kenya (2010) stipulates that the chairperson and vice chairperson of an independent office or commission shall not be of the same gender.¹⁹¹

These areas highlighted were critical for addressing the causes of the crisis, for reconciling communities, and for preventing future conflicts in the country. The goal of the National Accord was to achieve sustainable peace, stability and justice in Kenya through the rule of law and respect for human rights. In order to do so, some of the key indicators toward achieving the Accord goals needed tracking. They included the following: In agenda item 1, the stopping of violence which encompassed incidences of political violence and the actions like demobilization, disarmament of illegal armed groups, and the restoration of fundamental rights and liberties for its stoppage. In agenda item 2, humanitarian crisis was to be addressed through resettlement of internally displaced persons and promotion of healing and reconciliation. In agenda item 3, the resolving of political crisis which involved power sharing, political cohesion and coherence in decision making. Lastly, in agenda item 4, the measures which were critical for stability and prosperity of the country and central to its future as a unitary nation-state, needed monitoring and evaluation. They revolved around fundamental reforms such as constitutional review, land reforms and institutional reforms. Though progress has been made in some areas, it appears not

¹⁹⁰ Republic of Kenya, The Constitution of Kenya 2010, Article 27, clause 1-5, Nairobi: Government Printer

¹⁹¹ Ibid, Article 250, clause 11

to be sufficient to prevent another crisis. More important was to foster national cohesion through elimination of feelings of exclusion and marginalization. Nevertheless, the dominant perception was that soon after politicians shared power, they neglected the responsibility to fast-track reforms. But comprehensive reforms were a must for the country to avoid another wave of political violence. Pressure both from locals, especially civil society, and international community by way of sanctioning notable politicians and senior government officials in their foreign travels assisted considerably towards the realization of this goal.

A national survey conducted in early 2013 showed that progress in preparedness for the March 2013 General Election had been made in various areas and institutions.¹⁹² This was in contrast to the period after the post-election violence in 2008 when people had lost confidence in key institutions. The transformation of key institutions after the promulgation of the new Constitution gradually rekindled public trust in them. Kenyans generally became optimistic that the country was prepared for the elections. People relatively increased confidence in the institutions that will be superintending over the elections. Many laws were passed and institutions transformed. People were also optimistic that the country will hold free and fair elections. It is also significant to note that the Judiciary continued to enjoy increased public confidence.¹⁹³

The challenges have been that the coalition government agreed on a number of reforms including youth employment, land reforms, equitable development of various regions and constitutional reforms, but implementing these reforms in the manner envisioned and within the time frame while preparing for 2013 elections was an enormous task to effectively handle simultaneously, hence resulting to some reforms stretching well beyond the stipulated time.

¹⁹² The Kenya National Dialogue and Reconciliation (KNDR) Monitoring Project, Report on Kenya's 2013 General Election: A Review of Preparedness, South Consulting, Feb., 2013, pp. 14-18.

¹⁹³ Ibid, p. 15

3.6 Kenya's Regional and International Relations:

Kenya's foreign policy from independence continued to be largely influenced by its external dependency¹⁹⁴ despite inviting China from 2002 to reduce the influence of traditional western allies on the internal running of the government in the new structure of the international system.¹⁹⁵ Since the time of adoption of capitalist approach, foreign capital became vital to Kenya's economic development. Such ties to capital meant that the ruling elite could not implement any policy that would adversely harm the interests of capitalists, hence a convergence of interest. Therefore, the true power behind foreign policy making in Kenya were those who controlled foreign capital. This can explain why Kenya has been reluctant to take radical measures in international affairs and its assumption of position of a sub imperial power in East Africa.¹⁹⁶

The strategic position held by Kenya in the region seemingly is what gives her leverage over the regional stability and the interests of foreign development partners. Any trouble in Kenya, therefore, quickly infects her neighbors as was the case with the economic spillover effects of the 2007/2008 crisis. This was evidenced by the higher priority the crisis assumed than other crises of instability on the continent. It has, for example, been argued that the United States (US) interest in the region is reflected in her Nairobi Embassy which is the largest in the entire sub-Saharan Africa.¹⁹⁷ The reasons given for this argument are that Kenya is a significant counterterrorism partner, an important point of military and humanitarian access in the region for

¹⁹⁴ M. Kituyi, Is "Operation Linda Nchi" a Sign of Shifting Geopolitical Strategy in Kenya? (Paper presented at the Seminar of the Institute for Security Studies (ISS) and the Hanns Seidel Foundation (HSF) Nairobi, at ISS Nairobi Seminar Room, 10 May 2012, (available at <http://www.issafrica.org/events/iss-and-hsf-seminar-report-kenyas-foreign-policy-and-geostrategic-interests>, accessed on 20/7/2013.

¹⁹⁵ The international system moved from bi-polar to unipolar at the collapse of the Berlin wall in 1989. The system further changed with the decline in strength of America due to economic crises slowing down the rate of growth. It led to the rise of other states – particularly China with its cultural relativist stand on human rights.

¹⁹⁶ Ibid.

¹⁹⁷ D. G. Michelle, Policy Options Paper—Kenya, March 14, 2007, available at <http://www.cfr.org/kenya/policy-optionspaperkenya/p15727> accessed on 20/7/2013.

the West, a regional hub for international and nongovernmental programs and the cornerstone for private sector activity in East Africa.¹⁹⁸

Kenya, at the same time, has been and is still involved in international cooperation with other countries through several regional initiatives which include the East African Community (EAC), Common Market for Eastern and Southern Africa (COMESA), Intergovernmental Authority on Development (IGAD), New Partnership for Africa's Development (NEPAD), and ICC among others.¹⁹⁹ A noticeable change occurred from 2002 when the government embarked on expanding the pool of international partners by venturing in the East to bring on board China.

The country's inward looking foreign policy has arguably made it suffer recurrent raids by Ethiopian armed groups in Turkana to steal livestock. It also led to the standoff with Uganda over Migingo Island in Lake Victoria and President Yoweri Museveni's derogatory statements that Kenyan soldiers are only good for military parades, football and athletic competitions. However, the cross border abductions of foreigners that occurred in Lamu and in Dadaab refugee camp necessitated a reaction and a more robust approach.²⁰⁰ Kisiang'ani argues that the government acted quite passively in the former case as compared to the way it acted towards the latter in intervening in Somalia, which in his view, should have used soft power strategies such as negotiations with the various Somali clans and their leaders or even with the militant group

¹⁹⁸ Ibid

¹⁹⁹ E. Kisiang'ani, "Issues in Kenya's Foreign Policy and the Somali Crisis: Some reflections." (Paper presented at the Institute for Security Studies (ISS) and the Hanns Seidel Foundation (HSF), Nairobi, at ISS Nairobi Seminar Room, 10 May 2012, (available at <http://www.issafrica.org/events/iss-and-hsf-seminar-report-kenyas-foreign-policy-and-geostrategic-interests>, accessed on 20/7/2013.

²⁰⁰ E. Kisiang'ani, "Issues in Kenya's Foreign Policy and the Somali Crisis: Some reflections." (Paper presented at the Institute for Security Studies (ISS) and the Hanns Seidel Foundation (HSF), Nairobi, at ISS Nairobi Seminar Room, 10 May 2012, (available at <http://www.issafrica.org/events/iss-and-hsf-seminar-report-kenyas-foreign-policy-and-geostrategic-interests>, accessed on 20/7/2013.

Al-Shabaab in order to deal with the underlying structural issues. In view of this, he thinks that Kenya's Foreign Policy is ethnicized because ethnicity plays a key role in decisions.²⁰¹

In the economic realm, the strategic plan for 2009-2013 forms the basis of new priorities in foreign mandate. These include promoting economic development and prosperity through regional cooperation and strategic partnerships by increasing capital in-flow, harnessing existing sources of Foreign Direct Investments (FDI) while attracting new sources and enhancing technological advancement through appropriate and reasonable technology. The seeming change in international relations has brought about the "new" policy approach called "economic diplomacy" according to the Cabinet Secretary for Foreign Affairs, Ambassador Amina Mohammed. Economic diplomacy has been touted as a good example of how foreign policy is used to meet domestic policy objectives. It forms one of the pillars of Kenya's foreign policy which focuses on trade and trade suitable matters. The pillar applies the theories of Adam Smith and David Ricardo in advocating for Kenya's competitive advantage in production of certain products such as horticultural goods and tourism sector. This is the most integrated to vision 2030 among the other pillars.²⁰²

Therefore, despite sensitivities surrounding fears of foreign interference in the internal affairs by the West, the international pressure they applied played a pivotal role in achieving the power-sharing agreement. At the time, the government constituted by president Kibaki prior to the formation of coalition government put up spirited resistance to international calls for progress in political negotiations towards power sharing goal to no avail. When the deal was finally made, it was an opportunity for the larger international community, particularly the Western Powers and

²⁰¹ Ibid.

²⁰² Republic of Kenya, "A Summary of Key Investment Opportunities in Kenya", Macro Planning Directorate Office of the Prime Minister, Ministry of State for Planning, National Development and Vision 2030, (Nairobi: Government Printer, 2012), p. 7, available at [http:// www.planning.go.ke](http://www.planning.go.ke).

the U.S. to make Kenya stable and democratic by helping to keep the coalition together and facilitating the needed institutional and structural reforms as the best way to protect their interests. It was critical to them that neither goal falls by the wayside,²⁰³ because for long the winner-take-all nature of Kenyan politics and the sweeping powers of the executive had subdued the political will necessary to deliver on reforming the country's governing structures since 2002 when NARC came to power.

3.7 The Impacts of Coalition Government in Kenya:

Since the main features of democratic governance are the rule of law, freedom of expression and association, electoral legitimacy, decentralized power, a responsible and participatory civil society, gender equality, transparency, accountability and development oriented leadership among others, their suppression in Kenya before the 2007 general election contributed to the violence. Zartman points out that “governing a state is not only the prevention of violent conflicts from destroying the country; it is the continual effort to handle the ordinary conflicts among many groups and their demands which arise as society plays its role in the conduct of normal politics”.²⁰⁴ In this context, it means that governance negotiations and conflict management is not about using state force apparatus to coerce and silence opposition but to address the demands of various pressure and civil society groups. Post conflict situation demands that a democratic all-inclusive governance approach is adopted. As we have argued above, a lot has been achieved in terms of positive institutional reforms that have been instrumental in addressing issues of identity, participation, distribution, penetration and legitimacy.

Identity has been addressed through proportional representation to take care of the interests of both minority and majority in government. The unfortunate thing is that the problem of tribalism

²⁰³ Ibid.

²⁰⁴ William I. Zartman, Introduction. In: Zartman I. W., *Governance as Conflict Management: Politics and Violence in West Africa*, (Washington: Brookings Institution Press, 1997). p. 1

has not been addressed; instead the leadership still looks at it as a consciousness. Attempts to reduce tribalism in Kenya seem to always suffer from the failure to confront the issue of making tribal identity less useful both economically and politically.

Participation is highly contextual. In a one-party system, participation exists in the form of factionalism and in a multi-party system; it exists in the form of free choice and association. Kenya has been a multi-party democracy since 1991. The Constitution has enhanced it by providing for guaranteed representation of marginalized groups like women, youth and people with disabilities. The problem seems to still remain with the left wing of the ideological divide which apparently has never had the opportunity to set policy or articulate its views without harassment from the government. Hornsby argues that Kenya's African Socialism, introduced by the Sessional Paper No 10 of 1965 on "African Socialism and its Application to Planning in Kenya", was never truly socialist and its capitalism was never of American free-enterprise liberal type; rather it was state capitalism where the state owned, managed or indirectly controlled majority of productive activity; and private owners were either foreigners, multinational corporations or politicians and their allies.²⁰⁵ This, observably, is still the structure. The working class on whose behalf leadership is undertaken seems not to have been given appropriate recognition in political, economic and social structures. Besides, the groups of indigenous entrepreneurs capable of being deployed to develop productive forces seem to have been targets for marginalization/destruction. The result has been the development of enduring tension between supporters of communal and individual views as the theme of conflict. One may argue that this is what played to fore during the 2007 general election.

Distribution is about how resources are spread in the country. The monopolization of national resources by a particular ethnic group tends to generates socioeconomic inequalities that

²⁰⁵ C. Hornsby, *Kenya: A History Since Independence*, (London: I.B. Tauris & Co. Ltd, 2013), p. 8.

ultimately generate a correspondence between ethnic and class antagonism. The distribution of scarce resources always lies at the heart of politics. Thus, Throup is right when he argues that it is through political competition rhetoric that state reaction to shifts in influence by different groups and the struggle for control thereof can be perceived.²⁰⁶ The beginning of the clash between the regime and capital interests of the Kikuyu entrepreneurs started when Moi ascended to the presidency and attempted to reappropriate state resources. He played the same tricks President Kenyatta used by diverting resources to northern Rift Valley to benefit his Tugen and other Kalenjin associates.²⁰⁷

Distribution has remained thorny because the structures entrenched the Kikuyu in the country's economy to the extent that when Moi tried to reappropriate state resources, he failed and this created a thread of hatred between the two communities whose sons have governed this country. Studies have shown this to be what exploded into the 2007 post-election violence. This is coupled by the fact that Kiambu Kikuyu elites rewarded their followers outside forming the core of instability in the long-run because it was done at the expense of other communities. Although the Constitution has laid structures for equitable distribution of national resources, a grey area still remain in land redistribution. The Land Commission was forcibly constituted when elections were at the corner and there are indications that the Commission may not be given the opportunity to discharge its mandate as the Cabinet Secretary for land issues is usurping the functions of the Commission the same way in internal security matters, the Inspector General is doing with the National Police Service Commission which are dangerous trends.

²⁰⁶ D. Throup, *The Construction and Destruction of the Kenyatta State* in Michael Schatzberg, (ed.), *The Political Economy of Kenya*, (New York: Praeger, 1987).

²⁰⁷ Ibid

Penetration, as shaped by colonialists to enable capital penetrate the economies of their colonies to replace their modes of production for purposes of integration into the western capital system, is what accounts for the current variance in growth and development in different regions of the country because from the start it favored some regions and discriminated against others. This was inherited by the local leadership at independence from the colonial power and has been maintained intact.²⁰⁸ The new constitutional order has been designed to remedy this situation.

Legitimacy as contrasted with legality is an issue of perception and attitude defined by morality. A fully legitimate government is one in which legality and legitimacy converges. Such a convergence cannot be found in the case of a coalition government formed after a disputed election outcome that remains unresolved. Where elections have been disputed and marred with violence, the resulting government lacks political authority and legitimacy. An adoption of a coalition government following such an election may, therefore, serve as an institution for reclaiming legitimacy both at domestic and international levels, hence the observation that, ‘the creation of a power-sharing arrangement has the advantage of conferring some sort of legitimacy to the ruling party without discrediting the opposition.’²⁰⁹

At the domestic level, legitimacy entails citizens’ attitudes toward the functioning of government. In a disputed election, the attitude that matters is that of the citizens who feel that their vote has been violated. This is because winners almost always support the government they put in place even if fraudulent means were employed in doing so.²¹⁰ As such, it is the loser’s support of such a government that would ultimately accord it genuine legitimacy.²¹¹ A coalition

²⁰⁸ Claude Ake, “A Political Economy of Africa”, (Longman Nigeria, 1981) p. 15.

²⁰⁹ B. Mesfin, ‘Democracy, elections and political parties- a conceptual overview with special emphasis on Africa’ ISS Paper 166 (2008), p. 2.

²¹⁰ D. Moehler ‘Free and fair or fraudulent and forged: elections and legitimacy in Africa’, Afrobarometer Working Papers 25 (2005).

²¹¹ A. Christopher et al, Losers’ consent- elections and democratic legitimacy (2005), p. 9.

government in the aftermath of a disputed election restores, to some extent, the losers' faith in the functioning of the government, whereas at the international level, political legitimacy is tied to the recognition of the government in place by other governments.²¹² While this recognition is guided by political considerations, states become reluctant to publicly recognize a government that has come to power through a highly flawed election. Coalition governments in the aftermath of disputed elections only reclaim some measure of legitimacy. The mere fact that they are based on disputed elections means that their legitimacy remains spoiled. To reclaim true legitimacy in such a situation, a fresh, free and fair election must be held in accordance with the law. In Kenya, this was not done and the finding by Independent Review Commission that it was not possible to conduct a re-count of the ballots in order to determine who actually won the 2007 election as the data was irretrievably polluted²¹³ gave in to the tenure of the Grand Coalition Government.

In a nutshell, some notable impacts felt, therefore, include: equitable distribution of resources to benefit all regions and this is where penetration is important as lack of it and concentration of development projects in some regions while neglecting others lead to marginalization and regional imbalance; willing leadership to bargain and incorporate the inputs of various groups into decision making that reflects broad consensus and values; consolidated democracy, peace and development by recognizing the role of civil society. Democratic reforms that reorient state-society relationship, according to Stedman, are a necessity for political accountability of rulers to become the hub of political life.²¹⁴ Finally is capacity building, this has been in terms of addressing the poor infrastructural state of public institutions, education, justice, the public sector and health care system. UNDP defines capacity building as “the process by which individuals,

²¹² J. Dugard, *International law-a South African perspective* (2005), p. 111.

²¹³ Republic of Kenya, *Report of the Independent Review Commission on the General Election Held on 27 December 2007*, (Nairobi: Government Printer, 2008(c)).

²¹⁴ John S. Stedman, *Conflict and conflict resolution in Africa: A conceptual framework*, in Deng, Francis and William Zartman (eds.), *Conflict resolution in Africa*, (Washington, D.C.: Brookings Institution Press, 1991) p. 374.

organizations, institutions and societies develop abilities (individually or collectively) to perform functions, solve problems and set and achieve objectives.²¹⁵ This is about providing individual organizations and institutions with the technical, regulatory, political, social and economic tools for empowering themselves. This needs to take place at national and local levels. At national level, capacity building is to empower and improve skills, capabilities and competencies of the people in management of the country by politicians, policymakers and public servants and a system of rules and frameworks to guide them in implementation and management of the affairs of the country. Local capacity building is aimed at empowering locals to participate in policy formulation, implementation and evaluation in order to attain socio-economic development and sustainable peace. The best guarantee for stability is to ensure that people do not only have the capacity to govern themselves, but also control of the structures put in place to govern. This is achieved through training and development of skills to analyze government policies and monitor and evaluate government programmes and projects for their own benefit. This is viewed as returning democracy the way it was at its birth in Athens Greece – participatory as opposed to representative.

3.8 Conclusion:

Since theoretically it is shown that a coalition government formed after a disputed election takes the form of consociational coalition, the adoption of coalition government in Kenya was primarily undertaken to stabilize the system of governance. The acceptance of power-sharing agreement was undertaken to save the country from falling into the category of failed states. This arose from the fact that the existing economic inequality had killed political democracy perhaps

²¹⁵ United Nations Development Programme (UNDP), Capacity Development Technical Advisory Paper 2. New York, United Nations Development Programme. (1997a), p. 3

due to political power polarizing around economic power.²¹⁶ Ake argues that the need to curb the inevitable demand of have-nots for redistribution leads to repression by those holding political power, the existence of a high degree of economic inequality in society makes it seem to be repressive.²¹⁷ This makes the elites to be considered more important than the populace in consociationalism because its fundamental requirements for politics are: elites must have the power to accommodate their people; elites from one group must be willing to work with elites from other groups; elites must be committed to the cause of democracy and willing to work to ensure its survival; and elites must accept and understand the problems that will arise in the case of fragmentation.²¹⁸ The important factors of a consociational electoral system are the provisions for power sharing and the autonomy of cultural groups. To ensure these two aspects are achieved electorally is to have a proportional representation system. A proportional representation system tends to create a wide range of parties that necessitates the formation of a grand coalition.²¹⁹ Besides provisions for a minority veto is also very important. Economic condition therefore not only sets the tone of politics but also defines the role of coercion in society. The problem of consociationalism encouraging further divisions between groups in a state paves way for centripetal (integrative or plural) politics as an alternative. Rather than simply replicating the existing ethnic differences in the legislature, a centripetal system is designed to “encourage moderate, centrist forms of political competition instead of the polarizing extremes and centrifugal patterns that characterize so many divided societies.”²²⁰ Since 2002, it became

²¹⁶ Claude Ake, “A Political Economy of Africa”, (Longman Nigeria, 1981) p. 15.

²¹⁷ Ibid.

²¹⁸ Arend, L., Consociational Democracy, *World Politics*, Vol. 21 (2), (1969) pp. 207-225.

²¹⁹ B. Reilly, *Democracy in Divided Societies: Electoral Engineering for Conflict Management*, Theories of Institutional Design. (Cambridge, UK: Cambridge University Press, 2001)

²²⁰ Ibid, p. 7.

apparent in Kenya that never again will one dominant ethnic political party/group be in a position to win a general election without entering into a power sharing arrangement.

CHAPTER FOUR

ANALYSIS AND DISCUSSION OF EMERGING ISSUES

4.1 Introduction:

Kenya held its 5th multi-party elections in March 4th, 2013 being the first under the new constitution that provides for both National and County governments and bicameral Parliament. This election was fairly managed though the presidential results were contested in the Supreme Court; the court verdict was accepted offering the country an opportunity to transition peacefully to a new constitutional order. This is in contrast to the 4th multi-party election of December 27th, 2007 which because of poor management plunged the country into unprecedented violence making peace to be restored after mediation by a panel of eminent persons led by Kofi Annan. The peace deal led to the formation of a coalition government whose term in office ended when a fresh set of leaders were elected in the just concluded elections. This chapter condenses the arguments of various scholars as has been presented in the preceding chapters on the theory of consociationalism and conflict management in Kenya and examines the views of Kenyans interviewed to determine whether coalition government has had an impact on their political, economic and social life.

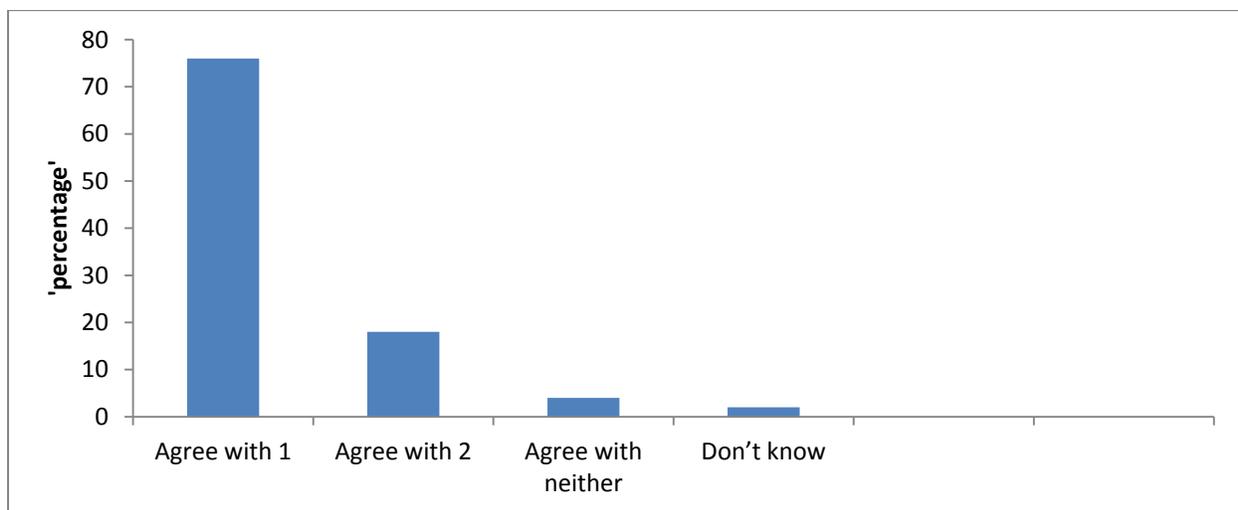
4.2 Primary Data Presentation and Discussion:

The interview covering all the forty seven Counties based on common methodology and interview instrument was conducted based on a representative random sample of ten adult Kenyans of voting age in each. The interview was conducted between 3rd June and 31st July, 2013. Respondents were asked to briefly give their views on the mode of governance in the periods between 2002 and 2007, and 2008 and 2012; on their political activities, on the judicial system; and on coalition government and what it achieved to stabilize the country.

4.2.1 Approach of Resolving 2008 Crisis:

Respondents were asked whether they agree with the statement that, “Given the political divisions in Kenya, formation of the coalition government was the best way to resolve the post-election violence” or with the statement that “Government by coalition is ineffective and so leaders should have found another way to resolve the violence.” Their views are captured in figure 1.

Figure 1: Approval rating of formation of coalition government in Kenya:



From the diagram, it is shown that overwhelming majority agree that the formation of coalition government was in fact the best option to address the conflict that surprised Kenyans. Only few respondents (18%) are of the view that coalition government is ineffective, meaning that leaders should have found an alternative way to address the crisis. This finding informs the elite who have been leaning so much on ethnic cleavages that no single ethnic group will have the commanding majority to clinch power on its own in Kenya and therefore coalitions will remain the way to go and it can either be pre-electoral coalitions, post-election coalitions or both.

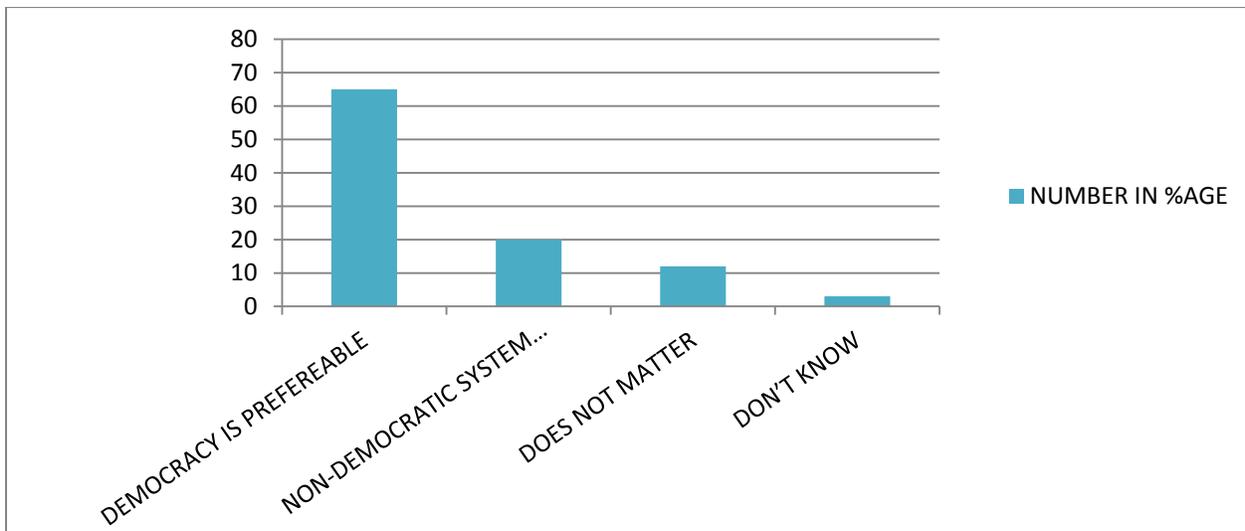
The current ruling coalition, for example, was constructed before and after the elections meaning it is both a pre-electoral and post-electoral pact. The 2008 coalition government

presented a united front that has delivered on a number of reforms, as argued in Chapter Three, that for a long time was resisted and it is hoped that the current coalition government will build on the good so far achieved by the immediate former coalition government to work towards perfecting the system given it is time for full implementation of the new constitutional dispensation.

4.2.2 Extent of Democracy in Kenya:

Regarding the extent of democracy in Kenya, each respondent was offered three statements and required to choose which one was closest to his/her opinion. The statements were: “Democracy is preferable to any other kind of governance”; “In some circumstances, a non-democratic government can be preferred”; and “For me it does not matter what kind of government we have”. The views are presented in figure 2.

Figure 2: Support of Democracy in Kenya

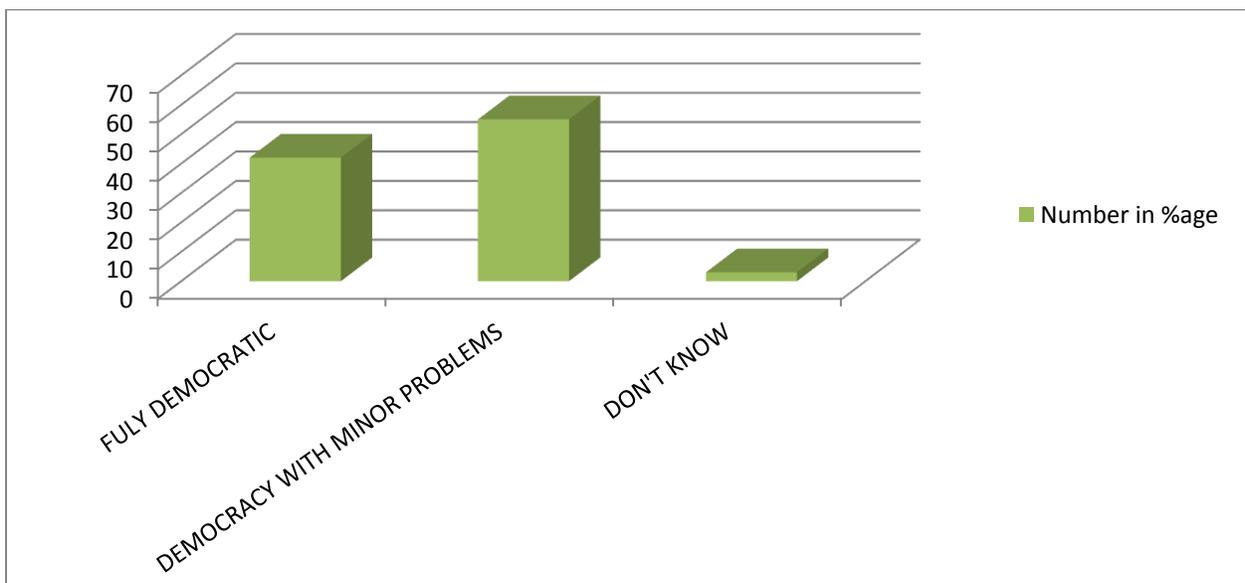


Again, majority of respondents (65%) agree with the statement that “Democracy is preferable to any other kind of government” compared to 20% who thinks in 2008, a non-democratic government would have sufficed while 10% says to them it does not matter what kind of

government there is. This makes it appear that the post-election crisis of 2007 had no effect on Kenyans support for a democratic system of governance.

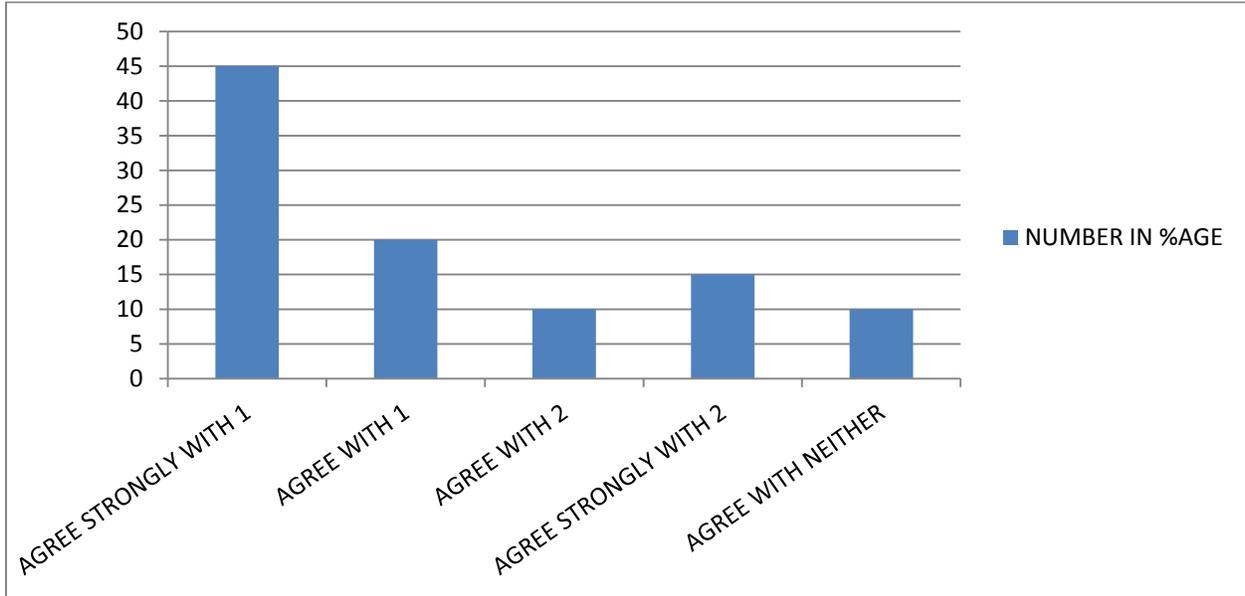
With regard to the question: How much of a democracy is Kenya?, the respondents views as captured in figure 3 below shows that they think Kenya is a democracy with minor problems and that governance before 2002 was authoritarian; democratic between 2002 and 2007 and that generally different between 2008 and 2012 as compared to previous periods. When asked whether the difference affected their living conditions, the views were varied. However majority felt the cost of living tremendously went up.

Figure 3: Extent of Democracy in Kenya



Respondents' views were also sought in respect to their political activities, and captured in figure 4. They generally think that we should choose our leaders through regular, open and honest elections. They also think that many political parties are needed to ensure Kenyans have a real choice in whom to govern them. They were also asked whether they think many political parties can create division and confusion among the voters in which many feel that many political parties offer everybody an ideology and democratic right to choose from.

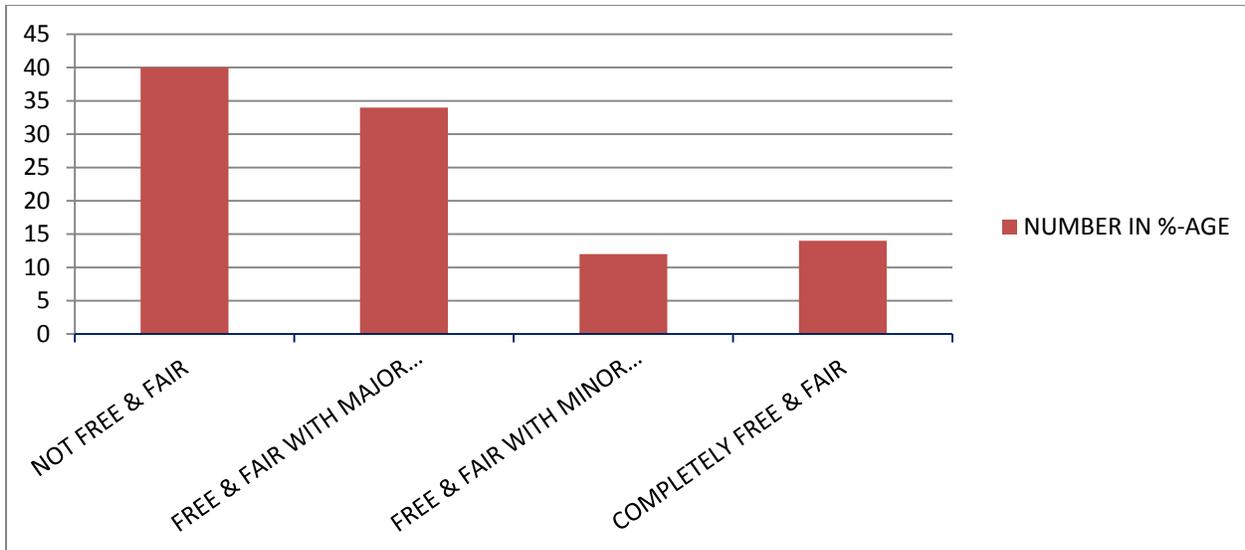
Figure 4: Support for Elections in Kenya



On the comparison of multi-party elections of 2007 and 2013, respondents were of the views that the conduct of the elections in 2007 and 2013 was by and large democratic with political parties and candidates exercising their right to contest (see figure 5). Despite the mismanagement in 2007 casting some doubt on the viability of democracy to guarantee peace, the 2013 outcome has restored the faith of majority in democracy. It is evident that Kenyans attitude towards the institutions and processes of democratic system reflect Kenyans continue to support the democratic system of government. This again confirms that the flawed election of 2007 has not dampened Kenyans faith in the elections as a medium for the practice of democracy. From the foregoing, it can be understood that power sharing is a mechanism for making democracy work in societies divided along ethnic lines. This is where Arend Lijphart's theory of consociationalism becomes relevant. "Consociational democracy means government by an elite cartel designed to turn a democracy with a fragmented political culture into a stable

democracy”.²²¹ One of the main functions of any democracy is to ensure the equality of citizens so as to avoid potential disputes arising from inequalities. Dlamini states that “democracies seek to manage conflicting interest by allowing the people to compete according to agreed rules, mediated by institutions”²²².

Figure 5: Freeness and Fairness of 2007 General Elections in Kenya



4.2.3 Support for Elections in Kenya:

Asked whether they think the 2007 election was free and fair, respondents’ views are that the 2007 election especially presidential, was flawed as compared to 2002 and the recently concluded 2013 elections. The question was: Do you think that the 2007 election was free and fair? Some of the reasons given can be condensed into the conspicuous irregularities in tallying process at the Kenyatta International Conference Center, the ECK chairman’s utterances that he had no control over his officers on the ground and the doubt he had whether president Kibaki won fairly at a later stage, and the Johann Kriegler Commission verdict that the results were irretrievably polluted to determine who actually won the presidential polls of 2007.

²²¹ A. Lijphart, “Consociational Democracy”, *World Politics*, Vol. 21, No. 2 (1969) p.216.

²²² Sphetfo N. Dlamini, “Power-sharing agreement, 2008: A consociational formula?”, (unpublished Masters Dissertation, University of KwaZulu-Natal, 2010) p. 12

The desire to transition peacefully to democracy in Kenya has consistently been hampered by ethnic hostility, party system; history of violence associated with elections²²³ and the lack of necessary and favorable conditions for a power-sharing agreement to thrive, especially the lack of a strong moderate and committed leadership, the motivation to accommodate others and a shared destiny.²²⁴ Authors J. A. Goldstone et al singles out the types of political instabilities as: large-scale conflicts (civil wars), democratic reversals, genocides, state collapse, adverse regime change and adverse shift in political institutions involving sudden loss of authority of the central state institutions and or their replacement by a more radical or non-democratic regime.²²⁵ They define a civil war as that event which results into at least 1000 total deaths from conflicts involving state forces sustained at a rate of at least 100 deaths per year²²⁶ and term adverse regime changes as substantial shifts away from democratic towards authoritarian rule and collapse of central state authority such as it occurred in Somalia and the Democratic Republic of Congo in early 1990s; the overthrow of government by a radical revolutionary regime as in Cuba in 1959 and Iran in 1979; and the contested dissolution of federated states as of USSR and Yugoslavia in 1991. Kenya's case may be argued to fall in the category of democratic reversal and/or adverse regime change.

4.2.4 Resource Allocation:

Kenya's economy has not equitably benefitted her citizens. Calls for economic reforms, as late as the 1990s, were still driven by Western countries which still shaped it in conformity to the

²²³ Jeremy Horowitz, "Power-sharing in Kenya: Power-sharing Agreements, Negotiations and Peace Processes", Center for the Study of Civil War, Oslo (CSCW), 2008, p. 2.

²²⁴ Marisa Traniello, "Power-Sharing: Lessons from South Africa and Rwanda", International Public Policy Review, Vol.3, No.2, March 2008, p. 2.

²²⁵ Jack A. Goldstone, Robert H. Bates, David L. Epstein, Ted Robert Gurr, Mitchel B. Lustik, Monty G. Marshall, Jay Ufelder and Mark Woodward, "A Global Model for Forecasting Political Instability", American Journal of Political Science, Vol. 54 (1), 2010, 190-208:191.

²²⁶ James Fearon and David Laitini, "Ethnicity, Insurgency and Civil Wars", American Political Science Review 97, 2003, pp. 75-90.

political economy of western model, ignoring the divide between economic liberals and social democracy which remains deep and align with the sensitive mark of ethnicity where the Luo are largely for pro-state intervention and anti-capitalist while the Kikuyu are for free market liberals.²²⁷ During early days, the colonial government concentrated development in a number of selected regions i.e. Kiambu, Nyeri and Muranga in Central province; Machakos and Meru in Eastern; Kakamega and Bungoma in Western; Kisumu and Kisii in Nyanza and a few urban areas like Nairobi, Mombasa, Kisumu and Nakuru, leaving vast areas undeveloped.

Patrimony in Kenya became the determinant of which individual and/or ethnic group gets to “eat the fruits of uhuru”.²²⁸ The resultant discrimination in development led to ethnicity and enjoyment of the fruits of independence as the theme of conflict. At every level of state and society and in every institution, the process of neo-patrimonialism shaped political and economic activity due to existence of loosely structured factions of powerful patrons competing for power and resources.²²⁹ These informal structures of authority and competition often conflict with formal bureaucratic legal institutions and explain much of Kenya’s politics since independence. Unless this changes, the country cannot be considered to have left the citadels of violence as witnessed in 2008.

Historically, at the national level, struggle for power and resources has coalesced into three way division representing three ethnic groups – Kikuyu, Luo and the Kalenjin. In the first two decades of independence, the Kikuyu incorporated Kalenjins into power on junior terms, a process that gradually marginalized the Luo. This resulted from the fall out between the Kikuyu and Luo from 1963 – 1969 when the two were competing over issues especially ideology.

²²⁷ For details, see. B. A. Ogot “The Politics of Populism” in Ogot B. A and William Ochieng (eds.), 1995, *Decolonization and Independence in Kenya 1940-1993*, Nairobi: East African Education Publishers, pp. 66-68.

²²⁸ Charles Hornsby, *Kenya: A History Since Independence*, London: I. B. Taurus & Company, 2013, p. 9.

²²⁹ *Ibid.*

Therefore, politics in Kenya has been and remains an ethnically driven competition for resources and survival for the fittest where the prize is control of the resources. Kenyatta did it for members of the Kikuyu community, Moi for the Kalenjins and Kibaki presumably for the Kikuyu again. The question is: Will Uhuru and Ruto (two partners in the ruling Jubilee Coalition) representing the same two communities do the same? This has led to a system where the reward for power is sweet, consequences of defeat very severe and the winning goal is for both the individual and the community in order to enjoy the fruits of independence.²³⁰

As a measure to address ethnic conflict, constitutional engineering of the electoral systems is necessary, though it exacerbates it. Electoral system has two dimensions: how members of the legislature gain office and whether the executive branch is parliamentary or presidential. In this regard, the legislative electoral systems can be a plural, majority or proportional representation model. In a plural model, parties with most votes in an electoral unit win that seat. This system does not require that any party receive more than fifty percent of the vote. The majoritarian electoral model demands that one party win more than fifty percent of the vote. Lewis says that scholars in 1950s and 1960s argued that the plurality model was destined to fail²³¹ and became one of the first scholars to promote proportional representation (PR) as a way of ensuring that governments hear the voices of the minorities.²³² Proportional representation is widely seen as the most common way to ensure that the government represents the interests of the minority as well as of the majority. In a proportional representation system, the percentage of votes a party receives in the constituency is the percentage of seats the party receives in the legislature.

²³⁰ Ibid, p. 9.

²³¹ W. A. Lewis, "Politics in West Africa", (London: George Allen and Urwin, 1965).

²³² Ibid.

4.3 Political development:

Despite political institutions remaining stable, political alignments has not. Various factions have been emerging and disintegrating both at the center and districts. Population pressures and social differentiations have been altering much of the coalitions as well as undermining positions of political patrons and representatives of the constituencies at the center. Land issue has remained at the center of Kenyan politics. It began during the First World War period and determines the country's stability.²³³ Politics of land is also at the center of Kenya's ethnic groups. Land remains the most important reward that peasants expect from their patrons and politicians. Its distribution, due to the fact that only one-quarter of the country receives minimum rain for grain growing, underlies most ethnic rivalries.

4.4 Economic Development:

This is progress in an economy, or the qualitative measure of progress. Economic development usually refers to the adoption of new technology, transition from agriculture-based to industry-based economy, and general improvement in living standards. A development scholar Peter Uvin views post-conflict development as premised on three pillars: rehabilitation, reconstruction and development.²³⁴ Busumtwi-Sam notes the same three distinct approaches to post conflict development as taking place along a continuum of humanitarian assistance, rehabilitation and conventional development while Gariba on his part argues that post conflict development requires four approaches: good governance which addresses the root causes of the conflict; security reforms; a long-term development goal; and building local capacities and adds that where development has not taken place it is because these four have either been missing or

²³³ World Bank 1981, p. 143.

²³⁴ Peter Uvin, The development and peacebuilding, nexus: A typology and history of changing paradigms. *Journal of Peacebuilding and Development* 1 (1), (2000) pp.1-20:9.

are not integrated into the peacebuilding.²³⁵ Structural change models stress the transformation from a traditional, agricultural economy to a modern, industrial economy. To Kenyans, the skewed distribution of scarce resources always lies at the heart of politics and the struggle in controlling it is what determines the level of development.²³⁶ Throup examined the development of Kenya's political economy from the level of high politics of elite competition for control over policy and patronage and "deep politics" of social and economic relations that legitimizes the regime through incorporation of local clients and found that ethnic groups demonstrated their indispensability by emphasizing that their interests have to be accommodated.²³⁷

Kenya experienced reasonably high economic growth during the first two decades after Independence, leading to significant improvements in livelihoods. However, since the 1980s economic performance deteriorated and per capita incomes started to decline. Measured by 1982 constant prices, per capita incomes fell from US\$ 271 in 1990 to US\$ 239 in 2002. Thus, by 2001, over half of the Kenyan population lived below the abject poverty line of one US dollar a day. Since the 2002 general elections were held and won on a platform of change, the coalition government was able to entrench into the constitution a commission to fight corruption and develop a new national strategy, the Economic Recovery Strategy for Wealth and Employment Creation (ERS), which was launched in June 2003. As a result, the economy experienced a period of strong economic growth, achieving a growth rate of over six per cent in 2006/2007. Sustained economic growth took place across the whole economy, notably in agriculture, tourism and manufacturing as well as in the social sectors. This broad-based economic growth led to a reduction in poverty levels from 56 per cent in 2002 to 46 per cent in 2006. The unfortunate

²³⁵ Edward, B. G., Post conflict development in Liberia: Governance, security, capacity building and developmental approach, p. 111.

²³⁶ David T., "The Construction and Destruction of the Kenyatta State." in Michael Schatzberg, ed., *The Political Economy of Kenya*. (New York: Praeger, 1987).

²³⁷ Ibid.

situation in 2007/2008 eroded all the gains made leading to a fresh start. The restored continued rates of economic growth has reinforced the government's latest development strategy, Vision 2030, with its goal of securing a growth rate of 10 per cent per annum from 2012 on average over the period up to 2030. This was developed in collaboration with private sector, civil society, development partners and other stakeholders as the country's new development blueprint covering the period 2008 to 2030 to transform Kenya into a newly industrializing, middle-income country capable to provide a high quality life to all its citizens by the year 2030.²³⁸ The Vision is based on three pillars: the economic, the social and the political. The economic pillar aims to improve the prosperity of all Kenyans through an economic development programme, covering all the regions of Kenya, and aiming to achieve an average GDP growth rate of 10% per annum and then sustain it up to 2030. The social pillar seeks to build a just and cohesive society with social equity in a clean and secure environment. The political pillar aims to realize a democratic political system founded on issue-based politics that respects the rule of law, and protects the rights and freedoms of every individual in Kenyan society.²³⁹

4.5. Reinstating political stability:

As it has been argued, the adoption of coalition government is primarily undertaken to stabilize the system of governance. The practice has, so far, been that it is resorted to for saving societies from total collapse, i.e. countries from falling into categories of failed states. The approach was applied in Kenya following the violence occasioned by the disputed presidential results of 2007 election and soon after copied in Zimbabwe to resolve the stalemate in the 2008 election fiasco and to improve economic disaster. In Kenya, the threat to the stability of the

²³⁸ Republic of Kenya, "A Summary of Key Investment Opportunities in Kenya", Macro Planning Directorate Office of the Prime Minister, Ministry of State for Planning, National Development and Vision 2030, 2012, p. 7, available at [http:// www.planning.go.ke](http://www.planning.go.ke).

²³⁹ Ibid.

nation and the possibility of degenerating into a civil war necessitated a coalition government to be formed. As such, to prevent further deterioration of the situation, the political elites agreed to form a coalition government. In Zimbabwe, the deeply entrenched culture of state sponsored violence against opposition supporters together with economic crises that for years had crippled the country justified the formation of a coalition government.

Besides, the disputed elections led to a political snarl-up in both countries which impacted negatively on the functioning of the respective governments. This meant that only by sharing power amongst political elites would the proper functioning of the concerned governments resume. In Kenya, the violence across the country and the calls for demonstrations by opposition leaders grounded normal government operations. Political elites recognized this fact upon realizing that neither side could realistically govern the country without the other. In Zimbabwe, the collapse of the economy coupled with the need to legitimize Mugabe's government isolated the country from the rest of the world. It was the unity of political elites that unlocked the gridlock.

The promise of sustainable peace in these two countries during the trying moments required strategies that seek to address the root causes of violence. Common practice has shown that coalition governments adopted after disputed elections are not in themselves sufficient to guarantee sustainable peace in the long run but only act as a 'stop-gap measure' to ensure a society does not entirely disintegrate.²⁴⁰ The meaning of this is to have the electoral system and institutions of the rule of law fixed to reverse situation. However, in the case of Kenya and Zimbabwe, the adoption of coalition government has been criticized on grounds that it establishes a dangerous trend that ought not to be encouraged to take effect further. The fear is founded on the experience that incumbent African presidents may refuse to vacate office, even

²⁴⁰ B. Reilly & A. Reynolds, *Electoral systems and conflict management in divided societies* (1999), p. 31.

after losing elections, hoping that a power-sharing agreement will be negotiated with opposition leaders.²⁴¹ As such, coalition governments can become the tool for incumbent presidents to retain power and opposition parties to simply dispute elections and invoke violence to be incorporated in the government as a new form of acquiring and/or retaining political power.²⁴²

This flows from the experience on political practices in Africa that has had the tendency to replicate itself across the continent. This is none other than the phenomenon of one-party states which started in Tanzania in 1965 and copied across the continent. Similarly, the so called ‘third term phenomenon’, saw the incumbent presidents change constitutions of their countries to allow them run for a third term of office.²⁴³ As a result of this, the political playing field became tilted in favor of those in power who, in their resolve to cling to power, used the opportunity to manipulate and win elections at all costs.

4.6 Threats to the ‘Agreement on the Principles of Partnership of the Coalition Government’:

The tensions created by the election and the post-election violence left Kenyans polarized along ethnic lines. Many victims who were chased from their lands during the ethnic clashes took long to go back to their homes because of fear and mistrust. The fundamental grievances over land distribution, inequalities in wealth and perceived historical injustices have been addressed gradually. Culture of impunity was another troubling thing. It had existed for long in Kenya and therefore could not be put to an end overnight. It was exhibited by the failure to hold to account the perpetrators of violence. They seem to be the same ones in all the periodic cycle

²⁴¹ L Ohijiofor ‘Power-sharing deal: more power to despots’ available at www.guardiannewsngr.com/africa/article01/indexn2_html?pdate=19090&ptitle=mugabe (accessed on 22 Sept 2008).

²⁴² J. Clark, ‘The decline of the African military coup’, *Journal of Democracy*, Vol. 18, (2007) p. 141.

²⁴³ N. van de Walle, ‘Presidentialism and clientelism in Africa’s emerging party systems’, *Journal of Modern African Studies*, Vol. 41 (2003) p.297.

of violence during elections spanning from 1992. To them, violence and polarization are useful election strategies. The failure to punish them means that they have little incentive to refrain from such behavior in future.

The question of implementing the findings of the various commissions in order to push through important institutional changes and hold those responsible for violence to account almost made the coalition to collapse. The trade-off between short-term and long-term goals in Kenyan cases saw many divisive issues deferred during negotiations to limit the scope of the agreement for purposes of producing the accord. This had the effect of pushing much of fundamental issues to be contained in agenda item 4 such as constitutional reform, land reform and perceived inequalities between ethnic groups to be left in the hands of the same people who have resisted them all the years.

The success of the coalition government was hinged on the political will of the two sides. Existing research on peace-keeping agreements suggest that a third-party enforcer is necessary because parties to such deals cannot be trusted to honor the agreement.²⁴⁴ There was no third-party enforcer for the Kenyan case, thus leaving the signatories to determine whether the agreement is to succeed or fail. Another line of research into the durability of the power-sharing agreements suggests that the details of the agreement account for its success or failure.²⁴⁵ Jeremy Horowitz found the Kenyan power-sharing agreement lacking most of the elements that sustain such arrangements elsewhere. It included only very minimal guarantees of inclusion and outlined broad principles for power-sharing which points to the importance of political leadership in sustaining the arrangement. Given that many guarantees were not specified in the agreement, its

²⁴⁴ B. Walter, *Committing to Peace: The successful Settlement of Civil Wars*, Princeton University Press, 2002.

²⁴⁵ C. Hartzel and M. Hoddie, "Institutionalizing Peace: Power Sharing and Post-Civil War Conflict Management", *American Journal of Political Science*, Vol. 47 (2), (2003), pp. 318-332.

durability depended on how it was implemented by the signatories over the period the coalition lasted.

Power sharing agreement was a success in achieving the primary goal of ending the conflict and restoring stability. Thus, the violence that engulfed the country ended with the signing of the agreement. Most internally displaced people were settled back in their lands, others elsewhere. There was widespread public approval of the power-sharing agreement. An opinion poll conducted in April 2008 after the power-sharing agreement showed broad support, with 75% of the respondents saying they approved of the accord.²⁴⁶ The poll also found strong support across partisan lines, with 75% of ODM supporters and 72% of PNU supporters approving. The survey further found significant optimism about the future of Kenya. In response to the question about the future of ethnic relations, largest share of the respondents (43%) said that they thought the relations between communities would improve in coming year, with 27% saying they would get worse, and 30% saying they would remain the same. Moreover, 47% of the respondents opined that there would be renewed violence if the power-sharing agreement collapsed.

Negative side effects: Authors in the project to which a case study by J. Horowitz identifies three potential problems associated with power-sharing as creating excessive transaction costs in decision making due to supermajority or unanimity provisions leading to inefficiencies or immobilism. In Kenya, no such provisions were included in the agreement with regard to policy making. The only area where guarantees were provided was with regard to the dismissal of cabinet ministers which required consent from both ODM and PNU. Second effect was the possible creation of an adverse selection problem whereby extremists and ethno-nationalists could be favored over moderates. This was not the case either in Kenya. To the contrary, the

²⁴⁶ Data from a survey (n=2,011) conducted by the Steadman Group (now Synovate) from March 28th to April 2, 2008.

leaders of the two parties to the agreement appeared to be relatively moderates compared to the hardliners in each side's camp. For example, in the final stages of the negotiation over the accord, Kibaki and Raila retreated with Annan in a private session to hammer out the last details of the agreement. Finally, power-sharing agreements have the tendency to create moral hazard problems by eliminating the oversight role played by the opposition. Without an opposition to check the government, corruption and theft increases. In the Kenyan case, ODM continued to play the role of opposition. Although ODM and PNU were partners in the governing coalition, they remained adversaries in the electoral arena, keenly aware that they would face each other again in the next election.

Additionally, coalition government created new opportunities for oversight within government bodies. This was achieved through the principal of portfolio balance where if the top position in within a particular ministry went to PNU, for example, the second position would be filled by ODM and vice versa. In principal, this system of balance within ministries allows each party to keep an eye on the other, making it difficult for any one party to create a fiefdom within a particular body.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATION

5.1 Introduction:

This study set out to investigate the impacts of Coalition Government on political, economic and social development in post-conflict Kenya between 2008 and 2012. The specific objectives were: to establish the relationship between the coalition government and political stability, economic and social development; to determine the effectiveness of coalition government in governance; and to examine the contribution of coalition government in the 2013 general election.

5.2 Conclusions:

Election manipulation, coupled with the lack of independent electoral bodies, impartial judiciary, and non-partisan police force, contributed to the violence that spontaneously erupted and as a way to end it led to the formation of coalition government. During the crisis, the economy badly needed political stability in order to be back on its feet of development. This is why the coalition government was established.

The long-term measures to end and maintain stability was about tackling poverty, inequitable distribution of resources, addressing historical injustices and reversing the history of exclusion of certain segments of society, curbing impunity, delimiting presidential powers and eliminating militias that were developing roots. The existence in Kenya of the connection between power holding and wealthy acquisition has been exacerbating tension among different communities, especially those excluded from power. The elite tendency has been to undermine the poor and the link between elite interests and politics of alienating political action from the needs and demands of the people has been hampering genuine democratic leadership.

Economic and social structures for spurring development have been dependent on political stability to function. It has been established that the political, economic and social structures are interdependent and interact in a very complex way. Each affects the character of the other and in turn affected by the others. Ake's thinking is that the economic structure is the most determinant of the others because it provides the axis around which all movements take place and imparts certain orderliness to interaction. Hence, none of the three structures can stand alone and be able to function properly. Proper functioning and development of these structures is for the common good of improving and making better the lives of citizens.

Kenya, unfortunately, is presented as one of the most unequal societies in the world. Existence of economic inequality in a society impedes political democracy because political power tends to polarize around economic power. Besides, a society where a high degree of economic inequality exists tends to be repressive. The repression arises from the need to curb the inevitable demand of the have-nots for redistribution. Therefore, an economic condition not only sets the tone of politics but also defines the role of coercion in society. There have been attempts to bring equity to regions in Kenya, e.g. the introduction of the CDF in 2003 and the recent Equalisation Fund²⁴⁷ are the right steps towards bringing equity in terms of regional development which is to be based on population density to avoid further claims of discrimination.

Governance in Kenya has been that of exclusion. It used to be based on the "winner-takes-all" with political power personalized and concentrated in the presidency. This absolute power has been corrupting seekers upon winning in elections. It is, at the same time, the determinant of who gets to "eat" the fruits of independence and as already seen the communities that accumulated wealthy in skewed early allocations started by colonial masters, have had a tendency not to let it go to another. This is what apparently contributed to the tensions that exploded in 2008. To

²⁴⁷ Article 204 (1) of 2010 Constitution of Kenya.

rectify the disparity in Kenya that had been perpetuated by successive regimes in terms of the appointments to cabinet, the judiciary and public sector institutions, of persons from regions where the powerful in government come from,²⁴⁸ coalition government through the medium of enacting a new constitution has established new governance structures that are largely accommodative of others. This was designed purposely to ensure peace is achieved and sustained. Power sharing concept was about accommodation of the minority interests. The challenge lies in implementation during this period of transition and mismanagement of this process can take us back to perhaps worse times than already experienced.

Public opinion about complete overhaul of the constitution began converging in the 1990s as one way of restoring good governance and economic development in the country. With major acceptable reforms effected in the electoral body of Kenya, the Judiciary, and the complete overhaul of the constitution that provides for a criteria that is open, all inclusive and competitive in filling key public offices in terms of gender, tribal and regional balancing, the contribution of coalition government towards the peaceful conduct of general election of March 4th, 2013 was a success. The country transitioned to new leadership and new constitutional dispensation which is progressing on relatively well. If cognizance of economic factors can be taken into account, an improvement on the traditional treatment of problems such as tribalism and nation-building can be enhanced.

5.3 Recommendation:

Apparently, there is no real conflict among the people of Kenya. There are conflicts among the elites who tend to draw the people into their wars on pretext that war against one elite is war against the people from where he comes or represents.

²⁴⁸ Karuti Kanyinga, "Governance Institutions and Integrity in Kenya in SID (ed), 2006, *Readings on Inequality in Kenya: Sectoral Dynamics and Perspectives*, Nairobi: SID.

I recommend that the elites commit to maintain the systems put in place by the new constitutional dispensation as a way of improving cohesion and stability of Kenya. They should also understand the perils of political fragmentation. It is arguable that the responsibilities of implementing both the consociational and centripetal solutions factored in the Kenya Constitution (2010) rests first with the elites and second the general public. Further research need to be conducted to keep track of the sustainability of the political stability restored, peace achieved and socio-economic development resuscitated.

REFERENCES:

Acton, L., *Essays on Freedom and Power*, (New York: Meridian Books, 1962).

Ake, C., *A Political Economy of Africa*, (Lagos: Longman Nigeria, 1981).

Allern, E., & Aylott, N. *Overcoming the fear of commitment: pre-electoral coalitions in Norway and Sweden*, (Paper presented at the annual Political Studies Association conference, Bath, 11-13 April 2007).

Anderson, D. "Yours in Struggle for 'Majimbo', Nationalism and the Party Politics of Decolonization in Kenya, 1955-1964," *Journal of Contemporary History* 40(3), (2005)

Aristotle (384-321 B.C.), "Book I" in S. Everson, (ed.), *The Politics*, (New York: Cambridge University Press 1988) pp. 1-20.

Aristotle (384-321 B.C.), Book III in Stephen E., (ed.), *The Politics*, (New York: Cambridge University Press, 1988) pp. 51-81.

Atuobi, S., "Election-related violence in Africa" *Conflict Trends* 10, 14, (2008).

Belmont, K., et al 'Institutional design, conflict management and democracy' in Reynolds, A. (ed.), *The architecture of democracy- constitutional design, conflict management, and democracy* (2002).

Berg-Schlosser, D., "Elements of Consociational Democracy in Kenya", *European Journal of political Research*. Vol. 13 (1), (1985), pp. 95-109.

Byman, D. "Keeping the Peace: Lasting Solutions to ethnic Conflicts", (Baltimore: John Hopkins University Press, 2002).

Castells, M. "The Information Age: Economy, society, and culture", Vols.1-3. Oxford: Blackwell & International Journal of Communication 5 (2011).

Center for a Stateless Society available at <http://c4ss.org/contents>, accessed on 24th June 2013.

Center for Civic Education 2009, available at http://www.civic.org/index.php?page=we_the_people_the_the_citizen_and_the_constitution, accessed on 24th June, 2013.

Chege, M. "Kenya: Back From the Brink?" *Journal of Democracy*, 19 (4), (2008).

Cheibub, J. et al 'Government coalitions and legislative success under presidentialism and parliamentarism' *British Journal of Political Science* Vol. 34 (2004).

Crocker, C.A. and F.O. Hampson, *Making Peace Settlements Work*. Foreign Policy, (104), (1996)

Crocker, C. A., "Lessons on Intervention," in *Managing Conflict in the Post-Cold War World: The Role of Intervention*. Report of the Aspen Institute Conference, August 2-6, 1995, Aspen, Colorado: Aspen Institute, 1996.

Tutu, D., "No future without forgiveness" (1999)

Dagne, T., "*Kenya: The December 2007 Elections and the Challenges Ahead*", (Congressional Research Service Report Prepared for Members and Committees of Congress, United States, 2008).

Dahl, R. A., *Polyarchy: Participation and Opposition*, (New Haven: Yale University Press, 1971).

David T., Freeman Personal Empowerment Resources available at <http://www.mind-trek.com/m/notes.htm> accessed on 24th June 2013.

Davis, G., "A History of the Social Development Network in the World Bank, 1973-2002," *Social Development Papers*, no. 56, (Washington D.C., World Bank, 2004).

Debiel, T. and Terlinden, U., *Promoting Good Governance in Post-Conflict Societies*, (Discussion Paper, Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), Decolonization in Kenya, 1955-1964," *Journal of Contemporary History*, Vol. 40(3), (2005)

Diamond, L. J. et.al, *Politics in Developing Countries: Comparing Experiences with Democracy*, (Boulder: L. Rienner Publishers, 1995).

Dlamin, Sphetfo N., "*Power-sharing agreement, 2008: A consociational formula*", (unpublished Masters Dissertation, University of KwaZulu-Natal, 2010).

Donald, R., *Managing Ethnic Conflict in Africa*, (Washington, DC: Brookings Institute

Fisher, R. and William U., *Working with Conflict: Skills and Strategies for action*. (London: Zed Books, 2000).

Fisher, R. and William U., *Getting to yes: negotiating agreement without giving in*. (New York: Penguin Books.1991).

Gavin, M. D., March 14, 2007. Policy Options Paper—Kenya available at <http://www.cfr.org/kenya/policy-optionspaperkenya/p15727> accessed on 20/7/2013.

George, A. L. & Bennett, A. *Case studies and theory development*. (Cambridge, MA: MIT Press, 2005).

Gertzel, C., *The Politics of Independent Kenya 1963-1968*. (Nairobi: East Africa Publishing House, 1970)

Gibson, C. and Long J., “The presidential and parliamentary elections in Kenya, December 2007”, *Journal of Electoral Studies*, (2009) pp. 1-6.

Golder, S. N., “Pre-Electoral Coalition Formation in Parliamentary Democracies”, (B. J. Pol. S. 2006).

Govan Hyden, Governance and the reconstitution of the political order. In: Joseph Richard ed., *State, conflict and democracy in Africa*, (London: Lynne Rienner, 1999).

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

Hornsby, C., “Kenya: A History since Independence”, (London: I. B. Taurus & Company, 2013).

Horowitz, D. “Conciliatory Institutions and Constitutional Processes on Post-Conflict States” *William and Mary Law Review* 49, (2008).

Horowitz, J., “Power-sharing in Kenya: Power-sharing Agreements, Negotiations and Peace Processes”, Center for the Study of Civil War, Oslo (CSCW) (2008).

Human Rights Watch Nigeria’s 2003 elections: the unacknowledged violence (2004) 1.

Jentleson, B. *Preventive Diplomacy in Post-Cold War World*. (New York: W.W. Norton Press, 2000).

Kadima, D., *Political party coalition building and splitting in post-apartheid South Africa: effects on representative democracy and party systems*, (Paper presented at the EISA Roundtable on Political Party Coalitions, Cape Town, 19th June, 2003).

Kanyinga, K. “Governance Institutions and Inequality in Kenya.” in: Society for International Development, *Readings on Inequality in Kenya: Sectoral Dynamics and Perspective*, (Nairobi: SID Press, 2007).

Karume, S., *Conceptual understanding of political coalitions in South Africa: an integration of concepts and practices*, (Paper presented at the Electoral Institute of Southern Africa (EISA) Roundtable on Political Party Coalitions on , 19 June 2003 Cape Town).

Kearney, S.L. *The Quest for Hegemony: Kenya, Kanu and the 1997 Elections within the Context of African Statehood, Democratization and Civil Societies in Embryosis*. (Unpublished Masters Dissertation, University of Natal, 1998).

Kibwana, K., “Development of Democratic Culture and Civil Society in Africa: An Analysis of Relevant Constitutional Initiatives and Models” *Lesotho Law Journal*, Vol. 6, No 1, (1990).

Lasswell, D. Harold [1934], *World Politics and Personal Insecurity*. Reprinted in, *A Study of Power*, (Glencoe, IL: The Free Press, 1950)

Laurie, N., ‘*When push comes to shove*’, The failure of international mediation in African civil wars. *Track Two* Vol. 8 No. 2: CCR, Cape Town, (1999).

Law Society of Kenya (LSK) Standing Committee on Constitutional Review *Final Report*, (Nairobi: 2006).

Lemarchand, R. “Consociationalism and Power Sharing in Africa: Rwanda, Burundi, and the Democratic Republic of the Congo”, *African Affairs*, Vol. 106 (422) (2006) pp.1-20.

Lewis, A.W., “*Politics in West Africa*, (Connecticut: Greenwood Press, 1965).

Lijphart, A. “*Democracy in Plural Societies*”, (New Haven and London: Yale University Press, 1977)

Lijphart, A., “The Puzzle of Indian Democracy: A Consociational Interpretation” *American Political Science Review*, Vol.90 (2) (1996). pp. 258-268.

Lijphart, A., *The Politics of Accommodation: Pluralism and Democracy in the Netherlands*. (Berkeley: University Press, 1975)

Lijphart, A., “Consociational and consensus democracy” in A., Lijphart, *Thinking about democracy: power sharing and majority rule in theory and practice*, (2008).

Lijphart, A., *Democracy in Plural Societies: A Comparative Exploration*, New Haven: Yale,

Lijphart, A., *The Politics of Accommodation: Pluralism and Democracy in the Netherlands*, (Berkeley: University of California Press, 1968).

Lijphart, A., The wave of power-sharing democracy, in Reynolds, A. (ed.) *The architecture of democracy constitutional design, conflict management, and democracy*, (2002).

Lijphart, A., "Consociational Democracy", *World Politics*, Vol. 21, No. 2 (1969) pp. 207-225.

Lijphart, A.. "Consociation: The Model and its Applications in Divided Societies" in Desmond R., ed., *Political Cooperation in Divided Societies* (London: Macmillan Press, 1982)

Lijphart, A.. "Constitutional Design for Divided Societies", *Journal of Democracy* 15(2), 2004
Majeed, A., *Coalition politics and power sharing*, (New Delhi: Manak Publishers, 2000).

Makoloo, M. O. Kenya: Minorities, Indigenous Peoples and Ethnic Diversity. *Minority Rights Group International Report*, 0-40, (2005)

Marisa T., "Power-Sharing: Lessons from South Africa and Rwanda", *International Public Policy Review*, Vol.3, No.2, March 2008, p. 2.

McGee, S., "Ethnic Division and Electoral System Design: Prospects for Reform in Kenya", *William and Kanthy Hybl International Fellow on Democracy Studies*, University of Denver. July-August 2008, (2008)

Miguel, E. and Gugerty M. K., "Ethnic diversity, social sanctions, and public goods in Kenya", *Journal of Public Economics*, Vol.89, (2005) pp. 2325–2368

Mill, J. S., *Utilitarianism, Liberty and Representative Government*, (London: J. M. Dent & Sons, 1948)

Mueller, S. D., "The Political Economy of Kenya's Crisis", *Journal of Eastern African Studies*, Vol. 2 (2), (2008) pp. 185 -210

Murunga, G. & Nasong'o, S., Bent on Self-destruction: The Kibaki regime in Kenya. *Journal of Contemporary African Studies*, 24 (1), (2006)

Mutakha, J., "Coalition governments and governments of national unity" *Moi University Law Journal*, Vol. 1, (2007)

Norpoth, H., "The German Federal Republic: coalition government at the brink of majority rule?" in Browne, E. & Dreijmas J. (eds.) *Government coalitions in western democracies* (1982).

Norris, P., *Driving Democracy: Do Power-Sharing Institutions Work?* (New York: Cambridge University Press, 2008)

Nwolise, O., 'Electoral violence and Nigeria's 2007 elections' 6 *Journal of African Elections*, (2007).

Odhiambo-Mbai, C., The Rise and Fall of the Autocratic State in Kenya in Oyugi W. O. Wanyande, P. & Odhiambo-Mbai, C., *The Politics of Transition in Kenya* (Nairobi, Kenya: Heinrich Böll Foundation, 2003) pp. 51-95.

Office of the High Commissioner for Human Rights, *Report of the Office of the High Commissioner for Human Rights on the fact-finding mission to Kenya*, (Geneva: OHCHR, 2008).

Oyugi, W. O., "Coalition politics and coalition governments in Africa" *Journal of Contemporary African Studies*, Vol. 24 (2006), pp. 53-79.

Paine, T., Common Sense, 1776 in Gangulee N. ed., *Thomas Paine Selected Writings*, (London: Nicholson & Watson Ltd, 1948).

Paris, R., "Peacebuilding and the Limits of Liberal Internationalism", *International Security*, 22(2), (1997).

Reilly, Ben, *Democracy in divided societies: electoral engineering for conflict management, Theories of institutional design*. (Cambridge, UK; New York: Cambridge University Press, 2001).

Reilly, Ben, Institutional Designs for Diverse Democracies: Consociationalism, Centripetalism and Communalism Compared, *European Political Science*, Vol. 11(2), (2011), pp. 259-270.

Republic of Kenya *Report of the Commission of Inquiry on Post-Election Violence (CIPEV)*, (Nairobi: Government Printer 2008b).

Republic of Kenya *Report of the Independent Review Commission on the General Election Held on 27 December 2007*, (Nairobi: Government Printer, 2008c).

Republic of Kenya, The National Accord and Reconciliation Bill, 2008, *Kenya Gazette Supplement*, (Nairobi: Government Printer, 2008a).

Republic of Kenya, The Constitution of Kenya 2010, Nairobi: Government Printer.

Robert E. L., Jr. "On the Mechanics of Economic Development", *Journal of Monetary Economics* Vol. 22 (North-Holland, 1988) pp. 3-42.

Russett, B., "The Facts of Democratic Peace", in: Michael, E. B, Sean M. Lynn-Jones and Steven E. M., (eds.), *Debating the Democratic Peace*, (London: The MIT Press, 1996).

Fisher, S., et.al *Working with Conflict: Skills and Strategies for action*. London: (Zed Books, 2000).

Sanger, C., and Nottingham, J., "The Kenya General Election of 1963." *Journal of Modern African Studies* 2(1) (1964) pp. 1-40

Seminar by the Institute for Security Studies (ISS) and the Hanns Seidel Foundation (HSF), Nairobi, at ISS Nairobi Seminar Room, 10 May 2012, (available at <http://www.issafrica.org/events/iss-and-hsf-seminar-report-kenyas-foreign-policy-and-geostrategic-interests>, accessed on 20/7/2013).

Sisk, T.D., "*Power Sharing and International Mediation in Ethnic Conflicts*" (New York: Carnegie Cooperation, 1999).

Sithanen, R., *Coalition politics under the tropics: office seekers, power makers, nation building-a case study of Mauritius*, (Paper presented at EISA roundtable on political party coalitions, Cape Town, 19 June 2003)

Spears, I., "Africa: The Limits of Power-Sharing", *Journal of Democracy* 13(3), (2002).

Strom, K. & Muller, W. *Coalition governance institutions in parliamentary democracies*, (Paper presented at the joint sessions of the workshops of the European Consortium for Political Research on 26-31 March 1999 , Manheim)

Tull, D.M. and Mehler, A., The Hidden Costs of Power-Sharing: Reproducing Insurgent Violence in Africa. *African Affairs*, 104(416), (2005) pp. 375-398.

Tutu, D., *No Future Without Forgiveness*. (New York: Image, 1999).

Warah, R. 'Not Ethnic cleansing, but Class war' - Kenya's violence is rooted in its economic and political inequalities', *Mail and Guardian*, 11-17 January, p. 12. (Newspaper)

Wilmot, J. L. Third Party Intervention: Changing Conflict from the Outside, in Staga, S, (ed.), *Interpersonal Conflict*, (United States: Wm.C.Brown, 1991) pp. 230-257.

Witness to truth: Report of the Sierra Leone Truth and Reconciliation Commission, volume 3A (2004).

World Bank, "Sub-Saharan Africa: From crisis to sustainable growth, A longterm perspective study", (Washington D.C. The World Bank, 1989).

World Summit for Social development Copenhagen 1995, available at <http://www.un.org/esa/socdev/wssd/index.html> accessed on June 30th, 2013.

Zartman, William I., "Introduction." In: Zartman I. W. *Governance as Conflict Management: Politics and Violence in West Africa*. (Washington Brookings Institution Press, 1997)

APPENDIX I: INTRODUCTION LETTER

Dear esteemed Respondent,

I pray and hope that you are fine in that part of Kenya. My name is Jimmy Juma Kisobo. I am a student at the University of Nairobi, undertaking a research study titled “The Impact of Coalition Government on Political, Economic and Social Development in Post-Conflict Kenya: 2008-2012”. I am therefore requesting you to respond to questions related to the subject based on your knowledge and experience.

The information to be collected will enable the researcher to generate knowledge on the subject matter and to complete his Research Project at the University of Nairobi. Kindly, note that all the information gathered from you will remain confidential and your identity will not be disclosed anywhere in the report.

Thank you and be blessed.

APPENDIX II: INTERVIEW SCHEDULE ON IMPACTS OF COALITION GOVERNMENT ON POLITICAL, ECONOMIC AND SOCIAL DEVELOPMENT IN KENYA: 2008-2012

Questionnaire Serial No.----- Resident Location-----

Interview Date-----

Background Information:

1. Respondent's sex: Male Female
2. Marital Status: Single Married Divorced Widowed
3. Level of Education: Primary Secondary University
College Adult Literacy Other
4. Ethnicity: -----

Respondent's occupation:

5. Are you employed? Yes or no
If yes, indicate: permanent or casual
Private or public
If no, indicate: business or other
Informal or formal
6. Average monthly income (Kshs)
- | | | | | | |
|-------------------|--------------------------|-------------------|--------------------------|-------------------|--------------------------|
| 5000 – 9, 999 | <input type="checkbox"/> | 10, 000 – 14, 999 | <input type="checkbox"/> | 15, 000 – 19, 999 | <input type="checkbox"/> |
| 20, 000 – 24, 999 | <input type="checkbox"/> | 25, 000 – 29, 999 | <input type="checkbox"/> | 30, 000 – 34, 999 | <input type="checkbox"/> |

35, 000 – 39, 999 40, 000 – 44, 999 45, 000 – 49, 999
50, 000 – 54, 999 55, 000 & above

7. What would you say is the rating of your income?

Very inadequate inadequate average adequate
Very adequate don't know

Views on mode of governance:

8. Which of these statements is closest to your own opinion?

Democracy is preferable to any other kind of governance

In some circumstances, a non-democratic government can be preferred

For me it does not matter what kind of government we have

9. How much of a democracy is Kenya in your own opinion?

Full democracy

Democracy with minor problems

Don't know

10. What would you say was the style of governance before 2002?

Authoritarian

Democratic

Don't know

11. In your view, what was the governance style between 2002 and 2007?

Authoritarian

Democratic

Don't know

12. Was the style of governance different between 2008 and 2012? Yes or No

Explain your answer.....

.....

.....

.....

.....

.....

13. Has the difference affected your living conditions in any way? Yes or No

Explain your answer.....

.....

.....

.....

.....

Views on respondent's political activities:

14. Are you a registered voter? Yes or No

15. If yes, when did you register?

Before 1992 or between 1992 and 1997

Between 2002 and 2005 or between 2007 and 2012

16. Indicate in which of the following elections you have participated:

1992 general election 1997 general election

2002 general election 2005 referendum
2007 general election 2010 referendum

17. Which of these statements is closest to your own opinion?

We should choose our leaders through regular, open and honest elections
Since elections sometimes produce bad results, we should think of other methods

18. Do you believe that many political parties are needed to ensure Kenyans have a real choice in who to govern?

Yes No.

19. Do political parties create division and confusion among voters? Yes. No.

Explain your answer.....
.....
.....

20. Are many political parties necessary? Yes No.

Explain your answer.....
.....
.....

21. Did you vote in the constitutional referendum of 2005? Yes or No

22. Were you satisfied with the results? Yes or No

Explain your answer.....
.....

23. Did you vote in the general election of 2007? Yes or No

24. Were you satisfied with the results? Yes or No

Explain your answer.....
.....
.....

25. Tribal clashes/election violence occurred in 1992, 1997 and 2007 general elections.

Were you affected by any in person? Yes or No

26. Were any of your relatives affected in person? Yes or No

27. If yes, explain how
.....
.....

28. Which of these statements is closest to your own opinion regarding the March 4th, 2013 election compared to December 27th, 2007?

- Not free and fair
- Free and fair with major problems
- Free and fair with minor problems
- Completely free and fair

Views of the respondent on the Judicial System:

29. Do you have confidence in the judicial system?

Yes No

Explain your answer.....
.....

Views of the respondent on Coalition Government and its working between 2008 and 2012:

30. Have you ever heard of coalition government?

Yes No

Explain your answer.....
.....
.....

31. Do you believe the formation of coalition government had positive effect on everyday life of an average Kenyan?

Yes No

Explain your answer.....
.....
.....

32. In your opinion, which of the following were the most pressing issues for the coalition government to address?

- Poverty
- Inflation
- Creating jobs
- Constitutional reform
- Unemployment
- Land reform
- Education
- Food shortage
- Tax reduction
- Insecurity

Healthcare

Road system

Other

33. Did you approve or disapprove of the coalition government?

Approved Disapproved

34. Some people are saying the implementation of the Truth; Justice and Reconciliation Commission findings will reduce the threat of future ethnic violence in Kenya. Do you agree or disagree?

Agree Disagree

Explain your answer.....

.....
.....
.....

35. In your opinion, how has the new constitution affected your living standards?

.....
.....

APPENDIX III: PROJECT IMPLEMENTATION SCHEDULE

	April 2013				May 2013				June 2013				July 2013				August 2013				September 2013			
Activity/Week	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Project revision 1	█	█	█	█	█																			
Project revision 2					█	█	█	█																
Questionnaire development									█	█														
Pilot test questionnaire										█														
Data collection											█	█	█	█	█									
Data capture														█	█									
Analysis and conclusion																		█	█	█				
Final revision																					█	█		
Binding and filing																								█

APPENDIX IV: BUDGET

Activity	Expenditure	Cost (Kshs.)
Proposal development	Photocopy Binding Typesetting Materials	15, 000
Data collection	Fieldwork - Transport - Allowances - Stationery	30, 000
Data analysis	Entering Analyzing	15, 000
Data presentation	Photocopy Binding	10, 000
Total Cost		60, 000