

**UNIVERSITY OF NAIROBI**

**INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES**

**AN ASSESSMENT OF THE APPLICATION OF PREVENTIVE DIPLOMACY IN  
CONFLICT RESOLUTION AMONG THE INDIGENOUS COMMUNITIES: A CASE  
STUDY OF THE MAASAI COMMUNITY IN KENYA**

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**R51/75954/2014**

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**A RESEARCH PROJECT SUBMITTED IN PARTIAL FULFILMENT OF THE  
REQUIREMENT OF THE DEGREE OF MASTER OF ARTS IN DIPLOMACY OF THE  
INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES, UNIVERSITY OF  
NAIROBI**

**OCTOBER 2016**

## **Declaration**

I Godfrey Maripet Norpoor hereby declare that this research project is my original work and has not been presented to any other University for an award of a degree.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## **Dedication**

*To the memory of my father in-law and mother in-law the late Mr Joseph Machira and the late Mrs Rodah Machira*

## **Acknowledgement**

I would like to thank God for provision of good health during the preparation of this project. A lot of gratefulness also to my supervisor Mr. Martin Nguru for his invaluable knowledge, advice and guidance and for putting in extra hours reading and making comments in areas that required clarity.

The completion of this project has been made possible through the understanding, love and support of my family who let me take a lot of their time to prepare this work, thank you very much. My classmates have been an amazing class without whom this project would otherwise have been complicated; their numerous questions helped me a great deal in understanding research concepts. Team ICM and Team Diplomacy, thank you very much.

I am grateful for the support of Mr. John Gisemba, Deputy Director Administration at Kenya Forestry Research Institute. He not only allowed me time off to attend school but also provided a lot of valuable advice and guidance before and during the preparation of this work.

I thank my grandfather for his concern for me and always asking about my progress in school and for organizing elders who participated in answering questions which resulted in the successful completion of this research project. My parents too played a critical role in encouraging me and believing in me. The list may be long but for all who helped me in one way or another in the course of my studies, thank you very much and God bless you.

## Abstract

Preventive diplomacy has gained traction in the last few years as a result of its proactive nature of prevention of conflict, conflict management as well as post conflict peacebuilding. This study therefore assessed the application of preventive diplomacy in conflict resolution among the Maasai community in Kenya. The study provided an overview of conflict as well as preventive diplomacy. The theoretical framework used in this study was Johan Galtung's theory of conflict. The theory helped to understand the key components in a conflict as Galtung identified three factors that is contradiction, attitude and behavior which are the major causes of conflict. In relation to this study understanding the three components will enhance the utilization of preventive diplomacy approached in preventing disputes/conflicts. Mixed method research design was used in the study and primary data was collected using an interview guide a sample size of 10 elders was selected using judgment sampling. The researcher used his own judgment to select the population members who were good prospects for accurate information. The findings of the study include; (a) preventive diplomacy approaches were and continue to be utilized by the Maasai community in conflict resolution, (100% n=10) of the respondents affirmed that preventive diplomacy is being utilized in conflict prevention (b) the respondents were unanimous that preventive diplomacy is beneficial, (100% n=10) indicated mediation as being the most effective approach, (50% n=5) added a combination between good offices, adjudicative dispute resolution and mediation as being effective and (30% n=3 of 10) added negotiation as an effective PD approach while (20% n=2) did not add any other approach (c) in implementing preventive diplomacy; it was evident that there were challenges (80% n=8) indicated conflict of interest and (20% n=2) indicated lack of experience. The study therefore concludes with a world facing challenges of conflicts, preventive diplomacy is an important cost-effective and proactive approach that will save the international community millions of dollars, prevent loss of lives and property and provide sustainable peace. The study finally recommends that indigenous communities be involved in conflict prevention and their knowledge be harnessed to form broader international efforts towards conflict prevention, the United Nations also needs to scale up the application of preventive diplomacy to enhance initiatives for maintenance of international peace and security.

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## **List of Abbreviations**

**ADR-** Alternative Dispute Resolution

**AU-** African Union

**CSCE-** Conference on Security and Cooperation in Europe

**DPA-** Department of Political Affairs

**DRC-** Democratic Republic of Congo

**ECOWAS-** Economic Communities of West African States

**GA-** General Assembly

**ICC-** International Criminal Court

**ICJ-** International Court of Justice

**IGADD-** Inter-Governmental Authority on Drought and Development

**ISRO-** International Strategic Research Organization

**MSU-** Mediation Support Units

**NATO-** North Atlantic Treaty Organization

**NCIC-** National Cohesion and Integration Commission

**ODM-** Orange Democratic Movement

**PD-** Preventive Diplomacy

**PNU-** Party of National Unity

**PSC-** Peace and Security Council

**TJRC-** Truth Justice and Reconciliation Commission

**UN-** United Nations

**UNESCO-** United Nations Economic Scientific and Cultural Organization

**UNOCI-** United Nations Operation in Côte d'Ivoire

**UNOWA-** United Nations Office for West Africa

**UNPREDEP-**United Nations Preventive Deployment Force

**UNSC-** United Nations Security Council

**UNSG-** United Nations Secretary General

**UNRCCA-** United Nations Regional Centre for Central Asia

## **Operational Definition of Key Terms**

### **Application**

As used in this study the term application means the **use** of preventive diplomacy approaches, tools or mechanism in conflict prevention and de-escalation of conflict

### **Indigenous**

This will be used in the study to mean the local communities or ethnic groups of people

### **Preventive Diplomacy**

As used in this study the term preventive diplomacy will adopt the UN definition for preventive diplomacy which is early diplomatic action aimed at preventing new disputes and the de-escalation of existing tensions into violence and limiting the spread of ongoing conflicts.

### **Approaches of Preventive Diplomacy**

As used in this study the approaches of preventive diplomacy are the tools and mechanisms used in the application of preventive diplomacy.

## CHAPTER ONE

### INTRODUCTION TO THE STUDY

#### 1.1 Background of the Study

The world for centuries has witnessed conflicts pitting one region against the other, one country against the other, one community against another and even amongst family members. It is therefore evident that conflict is endemic in society. Most of these conflicts are caused by the struggle for power and ideological differences, fight over resources, and control over a territory just to mention a few.

The year 2015, saw an increase in violent and non- violent conflicts across the world. There were 409 conflicts of which 223 were violent and 186 non-violent conflicts.<sup>1</sup> These conflicts were witnessed in various parts of the world with Africa, Middle East and Maghreb recording the highest number of violent conflicts.

The most significant conflicts around the world in the recent past included civil war in Syria, territorial conflict in the south China sea, war against Islamic State in Iraq, sectarian conflict in Lebanon, conflict in Ukraine, the war in Yemen and the continued Israel-Palestinian conflict among others.<sup>2</sup> Africa has witnessed a lot of conflicts for a long period of time over the fight for resources, territory, fight for power and ideological differences.<sup>3</sup> The West African region experienced catastrophic deaths, displacement of populations and abductions caused by the militant group Boko Haram.

Central African Republic was affected by ethnic and sectarian violence pitting the Christians and the Muslim population and in the Eastern African Region; South Sudan continued to face violent conflict between the Dinka and the Nuer communities which broke the government into two factions.<sup>4</sup>

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<sup>1</sup>Heidelberg Institute for International Conflict Research. (2015). Conflict Barometer. Heidelberg: Heidelberg Institute for International Conflict Research.

<sup>2</sup>Council on Foreign Relations. (2016, March). Impact on US Interest: Global Conflict Tracker. Retrieved March 3, 2016, from Council on Foreign Relations Web Site: [www.cfr.org/global/global-conflict-tracker/p32137#/](http://www.cfr.org/global/global-conflict-tracker/p32137#/)

<sup>3</sup> Bugnacki, J. (2015, January 17th). Critical Issues Facing Africa: Terrorism, War, and Political Violence. Retrieved March 1st, 2016, from An American Security Project Web Site: <http://www.americansecurityproject.org/critical-issues-facing-africa-terrorism-war-and-political-violence/>

<sup>4</sup> Bugnacki, J. (2015, January 17th). Critical Issues Facing Africa: Terrorism, War, and Political Violence. Retrieved March 1st, 2016, from An American Security Project Web Site: <http://www.americansecurityproject.org/critical-issues-facing-africa-terrorism-war-and-political-violence/>



In Kenya, ethnic violence has been witnessed in various part of the country post-independence. From the year 1992, there have been ethnic violence pre and post elections where people were killed, displaced and lost their property. This was worse during the disputed presidential elections of 2007 where 1300 people lost their lives, thousands displaced and property destroyed. Ethnic violence not related to elections has also been witnessed and this will form the basis of this research work specifically focusing on the Maasai community living in Kenya.

According to Irobi, Ethnic groups are defined as a group of people who have common cultural and dialectal features including history, customs and origin.<sup>5</sup> Ethnicity has thus been observed to have an effect on the struggle over resources and status in the community. The Maasai community which is the case in point in this study has for many years fought over power and resources. The conflicts with other communities have been over expansion of territory and raids to acquire more cows. Unfortunately there has been also intra-tribe conflict some of which have been extremely violent to the point of annihilating other clans within the Maasai community.

It is however important to describe who the Maasai are in order to put this study into perspective. The Maasai are a nomadic pastoralist community living on the southern part of Kenya extending into Tanzania. Their way of life entails keeping livestock where they move from one place to another in search of water and pasture for their herds of cattle. Their nomadic lifestyle and the value placed on cows have created strife between them and other communities and also between the different clans within the Maasai community.

In this study, the main focus was the intra-clan conflicts among the Maasai. In the 20<sup>th</sup> century extremely violent conflicts erupted amongst the different clans over dominance for power and leadership, fight over resources and mistrust amongst the clans. Some of the clans were wiped out while others were assimilated by the victors.<sup>6</sup> Over the years violence has eased out and therefore this research project sought to assess the application of preventive diplomacy in Maasai conflict resolution mechanisms.

## **1.2 Statement of the Problem**

Inter- and intra-state conflict has been of great concern to the overall peace and security architecture around the world. In most cases the first reaction has been the use of force or military intervention to quell the violence, it is only later that peaceful means are employed.

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<sup>5</sup>Irobi, E. G. (2005, May). Ethnic Conflict Management in Africa: A Comparative Case Study of Nigeria and South Africa. Retrieved August 29th, 2016, from Beyond Intractability Web Site: <http://www.beyondintractability.org/casestudy/irobi-ethnic>

<sup>6</sup>Sankan, S. (1971). The Maasai. Nairobi: Kenya Literature Bureau.

The use of indigenous conflict resolution mechanisms has for long been relegated or not given priority in conflict resolution.

Zyck and Muggah clearly indicate that the member states of the United Nations are in agreement that there is need to put more effort and resources towards preventive action. This is because it does not only save on scarce resources, but it also minimizes loss of lives and property which would have led to a humanitarian crisis. The costs associated with conflict such as reconstruction, peacekeeping would also be minimized especially as the world has continued to experience economic challenges.<sup>7</sup>

It therefore makes sense to utilize a combination of factors by using preventive diplomacy to prevent conflicts in addition to the use of indigenous conflict resolution mechanism. To gain a deeper understanding of some of the indigenous conflict resolution mechanisms utilized to prevent conflict, the researcher aims to assess the application of preventive diplomacy among the Maasai. The Maasai fought fierce battles amongst themselves to the extent of annihilating other clans. These battles are no longer there, so what changed despite their way of life remaining the same to a larger extent? Did they find a better way of solving their conflicts? This research project therefore sought to assess preventive diplomacy as used by the Maasai in conflict resolution.

### **1.3 Research Objectives**

#### **1.3.1 General Objective**

To assess the application of preventive diplomacy in conflict resolution among the Maasai community in Kenya

#### **1.3.2 Specific Objectives**

1. To identify preventive diplomacy approaches utilized in conflict resolution by the Maasai in Kenya
2. To assess the perceived benefits of preventive diplomacy in conflict resolution among the Maasai in Kenya
3. To identify the challenges of the application of preventive diplomacy in conflict resolution among the Maasai in Kenya

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<sup>7</sup>Zyck, S., & Muggah, R. (2012). Preventive Diplomacy and Conflict Prevention: Obstacles and Opportunities. *Stability*, 68-75.

## **1.4 Research Questions**

1. What are the preventive diplomacy approaches utilized in indigenous conflict resolution by the Maasai in Kenya?
2. What are the perceived benefits of preventive diplomacy in indigenous conflict resolution among the Maasai?
3. What were the challenges faced by the Maasai in the application of preventive diplomacy?

## **1.5 Justification of the Study**

### **1.5.1 Policy Justification**

Findings from this study will be vital in informing policy makers and enable them to enact legislation and/or policies that will ensure national cohesion through utilization of indigenous knowledge in conflict resolution specifically the application of preventive diplomacy in conflict resolution. This mechanism of conflict resolution is inexpensive compared to a more reactionary approach in solving conflicts when they have already occurred.

### **1.5.2 Academic Justification**

This study will also be important for academia as it will make a valuable contribution to the scholarship of preventive diplomacy and provide a reference point for scholars in the areas of diplomacy and international conflict management to better understand the dynamics of conflict prevention through the application of preventive diplomacy in indigenous conflict resolution. The general public will also benefit as they will be able to appreciate the unique gifts that communities have in conflict prevention and also appreciate the fact that home grown solutions to conflict prevention are more sustainable as opposed to externally driven solutions.

## **1.6 Literature Review**

### **1.6.0 Introduction**

The African continent has for many years experienced mainly ethnic violence due to the fight for scarce resources as well as power and dominance over other communities. This was made worse by colonialism during the scramble for Africa due to their divide and rule policy. Post independent African states did not also correct the injustices done by the colonial administrations. It is only recently when the African Union developed mechanisms for

preventive diplomacy through the department of political affairs albeit scarce resources to try and contain conflicts within the continent.

A case in point is the Karamojong of Uganda. Due to their nomadic pastoralist lifestyle, they owned a lot of land in Uganda but as Muhereza points out, they unfortunately they lost a lot of their land through pacification, redrawing of boundaries between Kenya and Sudan which left a lot of their grazing regions outside Uganda. They were also expelled from newly formed game parks, reserves and protected forests.<sup>8</sup>

Subsequent governments did not help to correct the injustice that the Karamojong suffered. In fact during the Amin regime (1972-1979) they lost more land as the administration established a military barrack in Mt. Moroto.<sup>9</sup>Muhereza further notes that buffer zones were created to separate the Karamojong from their neighboring communities and this resulted in the loss of their dry season grazing areas.<sup>10</sup>As a result of these events, the Karamojong became increasingly marginalized and due to their containment in a smaller area of land, tensions would arise during the dry season between the Karamojong and neighboring communities as well as within the different clans among the Karamojong.

Ethnic violence became a norm in Karamoja; they learnt to make home-made guns to protect themselves soon afterwards they were able to acquire sophisticated rifles from neighboring counties embroiled in conflict such as Southern Sudan as well as Northern Kenya. Other communities began having militia to protect themselves against the Karamojong with the backing of government forcefully disarming the Karamojong<sup>11</sup>.

It was only until the government of President Yoweri Museveni that constructive dialogue began to take place with the understanding that forceful disarmament may be counterproductive in the search for peace in the region. He set up a taskforce that would work alongside the Karamojong to find solutions to the perennial raids and violence in the region. The recommendations were that the Karamojong be enlisted in the newly created anti-stock

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<sup>8</sup>Muhereza, F. E. (1998). Violence and the State in Karamoja: Causes of Conflict, Initiative for Peace. Retrieved August 29, 2016, from Cultural Survival Web Site: <https://www.culturalsurvival.org/ourpublications/csq/article/violence-and-state-karamoja-causes-conflict-initiative-peace>

<sup>9</sup>Ibid

<sup>10</sup>Muhereza, F. E. (1998). Violence and the State in Karamoja: Causes of Conflict, Initiative for Peace. Retrieved August 29, 2016, from Cultural Survival Web Site: <https://www.culturalsurvival.org/ourpublications/csq/article/violence-and-state-karamoja-causes-conflict-initiative-peace>

<sup>11</sup>Otim, P. O. (2004, May). Baseline Study for the Ugandan Side of the Karamoja Cluster- The Conflict Early Warning and Response Mechanism (CEWARN) in the Inter Governmental Authority on Development Region. Retrieved August 29, 2016, from [www.cewarn.org/index.php?option=com\\_phocadownload&view](http://www.cewarn.org/index.php?option=com_phocadownload&view).

theft unit and have all their arms registered with the government. Peace committees were also initiated between the neighboring communities as well as the communities in Kenya and Southern Sudan which still exist to date.<sup>12</sup>

The Maasai community shares a similar history with the Karamojong of Uganda. They are also a nomadic pastoralist community. Before the colonialists arrived in Kenya, the Maasai had a lot of land which they controlled using customary methods. The arrival of the colonialists marked a turning point for the Maasai just like the Karamojong, their land was hived to establish National parks, game reserves, forest reserves as well as buffer zones. This is clearly outlined in the agreements entered into between the Maasai and the colonial administration where the Maasai had to sign under duress as Hughes points out. These agreements were to create white highlands for occupation by the colonialists.<sup>13</sup>

The disenfranchised the Maasai and the subsequent divide and rule policy applied by the colonialists only worsened the plight of the community. Strife ensued as a result of scarce resources mainly land for grazing and water for their animals. However it is important to mention that the fiercest battles among the Maasai were witnessed before the coming of the colonialist where some clans within the Maasai were completely annihilated and the remnants assimilated by other clans. Ole Sankan in his book *The Maasai*, records seven such intra-clan battles among the Maasai majority of whom moved to the forest and became the *Ndorobo* with the exception of *Ilkoki* who later joined the *Ilosekelai* who unfortunately were also attacked and the remnants allowed to join the other clans of the Maasai, the last before the coming of the Europeans is the *Ilaikipiak* clan.<sup>14</sup> The *Ilaikipiak* were a very powerful clan they were attacked by a joint force of the other Maasai clans as they had persecuted the rest of the clans and therefore had no friends. The war only lasted a day and they were completely defeated, the remnants were absorbed into the other clans.

These conflicts reduced drastically after the arrival of the Europeans and their intensity reduced. One of the recorded incidents where the intra-clan conflict intensified relates to *Ilmoitanik* clan. This clan was originally called the *Ilwuasi Kishu*, they formed two sub-sections. It so happened that one section got the blessings from the *Laibon* from the other sub-

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<sup>12</sup>Muhereza, F. E. (1998). *Violence and the State in Karamoja: Causes of Conflict, Initiative for Peace*. Retrieved August 29, 2016, from Cultural Survival Web Site: <https://www.culturalsurvival.org/ourpublications/csqa/article/violence-and-state-karamoja-causes-conflict-initiative-peace>

<sup>13</sup>Hughes, L. (2006). *Moving the Maasai: A Colonial Misadventure*. St. Antony's Series. Basingstoke, UK: Palgrave Macmillan.

<sup>14</sup>Sankan, S. (1971). *The Maasai*. Nairobi: Kenya Literature Bureau.

section to go for raids. The sub-section from which the *Laibon* belongs to was very angry that their own *Laibon* does not instruct them to go for raids and therefore they decided to kill him. Upon return by the other sub-section, a fight ensued as the raiders felt they needed to avenge the death of the *Laibon*, the section that killed the *Laibon* were badly beaten that they migrated and went to settle in Mumias which to the Maasai is called Moita far away from the rest of the Maasai clans.

As the African continent was witnessing these inter and intra tribal conflicts, the world was embroiled in two major wars which had catastrophic effects world over. The First World War happened in the 1914-1918 after the killing of Archduke Ferdinand of Austria-Hungary at Sarajevo by a member of the Serbian terrorist group by the name Black Hand.<sup>15</sup> It is important to point out that during this time countries in Europe formed alliances to protect and support each other against wars from other countries. Now when the Archduke was assassinated, Austria-Hungary declared war against Serbia, Russia joined to support Serbia, Germany joined to support Austria-Hungary and this created domino effects where several countries including the USA had joined the war.<sup>16</sup> By the time the war was ending millions of people had lost their lives and massive destruction to property had also been experienced.

The First World War saw the coming together of world leaders led by the President of the United States, Woodrow Wilson to look for solutions of bringing about global peace and security. This saw the formation of the League of Nations. Unfortunately peace only prevailed for 20 years and the World witnessed yet again another catastrophic war in 1939-1945. The Second World War ensued as a result of the incursion of Poland by Adolf Hitler. Britain and France declared warfare on Germany in support of Poland. Russia who had signed a pact with Hitler over Poland also joined in to support Germany and hence the start of World War II. World War II was vicious than the First World War. It is documented that between 45-60 million died, six million being Jews. A lot of property was also destroyed.<sup>17</sup>

This necessitated the creation of the United Nations due to the fact that the League of Nations was not able to prevent another world war and hence the need to for a more robust organization with a powerful security council to spearhead efforts towards maintaining international peace and security. It is against this backdrop that the leadership of the UN sought to find a

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<sup>15</sup>Duffy, M. (2009, August 22). *Feature Articles: Causes of World War I*. Retrieved September 20, 2016, from First World War Web Site: <http://www.firstworldwar.com/origins/causes.htm>

<sup>16</sup> Ibid

<sup>17</sup>History.com Staff. (2009). *World War II History*. Retrieved September 20, 2016, from History.com Web Site: <http://www.history.com/topics/world-war-ii/world-war-ii-history>

constructive and a more pragmatic approach towards bringing about international peace and security and hence preventive diplomacy was born.

The concept of preventive diplomacy (PD) was first proposed by Dag Hammarskjöld who was the United Nations Secretary General (UNSG) in 1953-1961. Within the UN system, it was mainly done through the UN agencies, regional organizations and national governments a process which was highly state centric. This was done through special envoys, peacekeeping operations and good offices of the UNSG. It was until recently that incorporation of indigenous resolution of conflict mechanisms were considered to be important in the process of conflict prevention. It is therefore imperative to review the literature available regarding the application of preventive diplomacy.

### **1.6.1 Preventive Diplomacy**

Preventive diplomacy has continued to advance as a result of emerging challenges. Preventive diplomacy is part of other efforts aimed at conflict-prevention where early diplomatic actions are taken to prevent new disputes, escalation of existing tensions into violence and limiting the spread of ongoing conflicts.<sup>18</sup>

Since 1945, there has been a call for countries to use peaceful means of conflict prevention and resolution as clearly indicated in article 33 of the charter of the UN in what is referred to as peaceful settlement of disputes. Preventive diplomacy forms this broader category of conflict prevention mechanisms.

Hammarskjöld was very instrumental in ensuring that the concept of preventive diplomacy is adopted and utilized by all nations in dispute resolution. This was as a realization that the World had witnessed two major wars, World War I and World War II and hence the formation of the United Nations with the mandate of ensuring global peace and security.

It is unfortunate that SG Hammarskjöld perished in an airplane crash in Congo in a bid to mediate a crisis which resulted from the political struggle in Congo and heightened by the cold war struggle between the US and the Soviet Union. The West was wary of soviet influence in Africa and therefore did all within their power to contain that influence. Some of the African leaders such as Patrice Lumumba who the US feared could lean towards the soviet Union was

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<sup>18</sup>Jenča, M. (2013). The Concept of Preventive Diplomacy and Its Application by the United Nations in Central Asia. *Security and Human Rights*, 183-194.

frustrated by the West planning for ways of having him removed from power as a prime minister of Congo or even assassination if the plan to oust him did not succeed. This was done through other leaders who were pro west and in 1961; Patrice Lumumba was killed sparking a civil war in Congo. It was this conflict that UN Secretary General Dag Hammarskjold was going to mediate when he met his death in a plane crash in Northern Rhodesia now Zambia.<sup>19</sup>

The concept of preventive diplomacy continued to be used in the United Nations System albeit in a limited way but begun gaining traction again when UNSG Boutros Ghali embraced it in his Agenda for Peace report of 1992, where he pointed out that proper utilization of diplomacy is in prevention and defusing tensions before they become conflicts.<sup>20</sup> These approaches of preventive diplomacy ensure that the impact of violence is minimized. As Bukari notes, indigenous communities also engaged in preventive diplomacy. The indigenous conflict resolution mechanisms comprised of social-economic, cultural and religious-spiritual dimensions in accordance with the traditions, customs and world views of the people within the different spheres of societal life.<sup>21</sup> The United Nations has recently begun appreciating that indigenous conflict resolution mechanisms can be useful and more sustainable in preventing conflicts or containing existing conflicts.

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<sup>19</sup>Office of the Historian. (2016, August 25th). *Milestones 1961-1968: The Congo, Decolonization, and the Cold War, 1960–1965*. Retrieved September 20, 2016, from Office of the Historian Web Site: <https://history.state.gov/milestones/1961-1968/congo-decolonization>

<sup>20</sup>Ozcelik, S. (2005). The Preventive Diplomacy, Conflict Prevention And Ethnic Conflicts In The Black Sea Region: The Case Of The Crimean Tatar. *Uluslararası İktisat ve Politika*, 102-123.

<sup>21</sup>Bukari, K. (2013). Exploring Indigenous Approaches to Conflict Resolution: The Case of the Bawku Conflict in Ghana. *Journal of Sociological Research*, 4(2).



### 1.6.2 Preventive Diplomacy Approaches

Causes of conflicts can be categorized in various ways. As Ozcelik notes, these can be categorized as power based, rights based and interest based. In power based approach, parties to a dispute try to prove or show who is more powerful while the rights based method is about who is right. In the interest based approach the parties' differences is based on interests.<sup>22</sup> It is important therefore to highlight the preventive diplomacy approached that can be utilized in the various conflicts, but this is by no means a prescription of conflict prevention as conflicts are unique and pose different challenges resulting in a multi-approach and multi-stakeholder engagement to prevent de-escalate existing conflicts.

PD is an anticipatory as opposed to reactive response to worldwide crises. One way in which Hammarskjöld viewed PD is to ensure local conflicts are not entwined in superpower rivalry.<sup>23</sup> As Acharya notes, there are a number of measures used in the application of preventive diplomacy. These measures include among others, mediation, negotiation, conciliation, adjudicative dispute resolution mechanism, and the use of envoys.<sup>24</sup> Other measures include mediation, negotiation, conciliation, arbitration, adjudicative dispute resolution as envisioned in the UN Charter on pacific settlement of disputes.

Despite the fact that preventive diplomacy is widely accepted as a cheaper way of preventing and managing conflicts, violent conflicts continue to occur begging the question whether tools for early warning are either not coordinated or not working at all. The African continent has witnessed a surge in conflict and increasingly the United Nations has used regional offices and special envoys to mediate different conflicts where success has been recorded in some and in some such as the Darfur and Western Sahara a lot needs to be done to ensure a lasting solution is arrived at.<sup>25</sup>

Africa as a result of recurrent conflicts has put in place regional PD initiatives which utilizes the pillars outlined in its African peace and security architecture where early warning, the utilization of the panel of the wise among other measures have been employed in an attempt at

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<sup>22</sup>Ozcelik, S. (2005). The Preventive Diplomacy, Conflict Prevention and Ethnic Conflicts in the Black Sea Region: The Case of the Crimean Tatar. *Uluslararası İlişkiler ve Politika*, 102-123.

<sup>23</sup>Acharya, A. (1994). *Preventive Diplomacy: Issues and Institutions in the Asia Pacific Region*. Eighth Asia-Pacific Roundtable (pp. 1-24). Kuala Lumpur: York University.

<sup>24</sup> Ibid

<sup>25</sup>International Peace Institute. (2011, December 31). Africa: Preventive Diplomacy in Africa: Adapting to New Realities. Retrieved March 9th, 2016, from International Peace Institute Web Site: <http://www.crisisgroup.org/en/regions/africa/ops/2012/hara-preventive-diplomacy-in-africa.aspx>

restoring peace in the region. These initiatives borrow on traditional conflict resolution strategies.<sup>26</sup>

### **1.6.3 Benefits of Preventive Diplomacy in Indigenous Conflict Resolution**

Indigenous conflict resolution mechanisms have not been well harnessed. The reason for this argument is that majority of the conflicts emanate from disputes which have not been well addressed at the local level before they get internationalized. The utilization of indigenous knowledge and the engagement of opinion shapers such as local chiefs and respected elders of the local communities can have a significant impact in prevention as well as de-escalation of conflicts when they ensue. The UN and other conflict managers need to tap into this resource in addition to the more formalized approaches of conflict management to enrich the practice and application of PD.

In his report to the Security Council, UNSG Ban Ki-Moon underscored a decision taken by the UNSC in its resolution 1325 (2000) where all actors working to ensure peace and security were urged to increase the involvement of women in conflict prevention and also highlighted the importance of acknowledging the contribution of indigenous conflict resolution mechanisms towards enhancing peace and security due to the dynamism of conflicts.<sup>27</sup>

After years of warfare during the cold war era, the prevention of armed conflicts assumed a higher urgency in the 1990s. Three major carnages – the genocide in Rwanda, ethnic conflicts in Bosnia-Herzegovina, and the collapse of the state of Somalia created more concern among the international community and discussions begun both within and outside the UN Security Council (UNSC) and General Assembly (GA).<sup>28</sup>

Bukari explored the approaches for conflict resolution in the Bawku traditional area in Ghana and highlighted that indigenous approaches to conflict prevention and resolution are more sustainable and could bring about lasting peace.<sup>29</sup> Bawku traditional area which is the largest traditional area in Ghana has been dogged by ethnic conflict over resources for decades; the area covers three districts and a population of over 400,000 people. It is important then to point out that the conflict resolution approaches that have been used over time have not integrated

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<sup>26</sup>Strachan, A. (2013). Preventive diplomacy and conflict prevention. GR, University of Birmingham, Birmingham, UK.

<sup>27</sup>Ki-Moon, B. (2011). Preventive Diplomacy: Delivering Results. New York: United Nations.

<sup>28</sup>Muggah, R., & White, N. (2013). Is there a preventive action renaissance? The policy and practice of preventive diplomacy and conflict prevention. Norwegian Peacebuilding Resource Center.

<sup>29</sup>Ibid

indigenous approaches and this has only had very little success in bringing about lasting peace in the region.<sup>30</sup>

It is clear from the definition of preventive diplomacy that the objective is to prevent conflicts, de-escalate existing ones and to contain the spread of skirmishes when they ensue. It is therefore imperative that point out that just like in medicine where prevention is better than cure, the application of preventive diplomacy in conflict prevention, de-escalation and limitation of the spread of conflicts has major benefits to society and the international community at large. The world has experienced turbulent times with the economic recessions, intra-national and international conflicts, the burden of disease, humanitarian crises as a result of conflicts and instability over the struggle for power, resources and fight for human rights. It has become therefore necessary to look for a better more proactive approach to conflict management and hence the application of preventive diplomacy.

Preventive diplomacy has therefore been successful in averting catastrophic humanitarian disasters, loss of lives and destruction of property. This can be evidenced by the de-escalation of the Kenyan crisis after the elections of 2007/2008 from becoming a civil war. Other successes include the preventive deployment of United Nations peacekeepers to Macedonia after the disintegration of Yugoslavia. A comparison of the United Nations peaceful measures such as peacekeeping, peacemaking and peaceful deployment are more costly than preventive diplomacy tools. It is therefore important to strengthen and widen preventive diplomacy efforts since they yield considerable benefits.<sup>31</sup>

#### **1.6.4 Challenges of Application of Preventive Diplomacy**

The UN through the UNSC is mandated to ensure the maintenance of international peace and security throughout the world. This is indeed a herculean task in a world that has continued to experience turbulence. Despite the appreciation of preventive diplomacy as an important tool in conflict management, the United Nations has continued to experience chronic underfunding especially in its conflict prevention endeavors. The application of preventive diplomacy has therefore continued to face numerous challenges as is observed by various scholars. Some of these challenges include a multiplicity of actors ranging from governmental to non-state actors who are engaged in preventive diplomacy initiatives. As observed by Zyck and Muggah, these

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<sup>30</sup>Bukari, K. (2013). Exploring Indigenous Approaches to Conflict Resolution: The Case of the Bawku Conflict in Ghana. *Journal of Sociological Research*, 4(2).

<sup>31</sup>Özçelik, S. (2006). The Theory and Practice of Preventive Diplomacy: The Case of Preventive Deployment in Macedonia. *Uluslararası İlişkiler*, 3, No. 11, 103-128.

actors do not have a well-coordinated approach towards conflict prevention and therefore the result is duplication of effort and ultimately preventive action fatigue.<sup>32</sup>

Localization of preventive action has also been widely accepted as good approach towards the implementation of preventive diplomacy. In doing this, the United Nations has utilized regional, national and subnational institutions to drive the agenda of preventive action. Majority of these organizations are however more concerned with the interests of their countries and therefore avoid engaging other actors who may have a divergent view point. This is further highlighted by the United Nations Regional Center for Preventive Diplomacy for Central Asia (UNRCCA) which reported that involvement of non-state actors is only done where there is no objection from national governments.<sup>33</sup>

Another challenge of PD is that the would-be interveners wait for long hoping that the situation would resolve on its own and sometimes wait until the conflict is at the hurting stalemate stage commonly referred to as the ripe moment to intervene. This approach however, has proved to be very expensive as by the time the intervention is done, there would have been loss of life as well as destruction of property and an international humanitarian crisis.<sup>34</sup> The lack of experience and expertise of some of the mediators has been identified as impacting negatively on the mediation process and ultimately the result of the preventive diplomacy engagement with the disputing parties. The element of non-meddling in the internal affairs of Countries as stipulated in the United Nations charter has in most cases slowed down the response of the international community in getting involved to prevent conflicts.

It is therefore imperative that the United Nations member states urgently come up with modalities of increasing the budget for the United Nations prevention mechanisms to be able to ensure sustainable international peace and security. The UN also needs to provide mechanisms for the coordination of all the actors involved in preventive diplomacy as this will enhance the success of preventive diplomacy initiatives.

### **1.7 Summary of Gaps in the Literature**

It is evident from the literature analyzed that little has been done regarding indigenous conflict resolution mechanism. The UNSC in its report highlighted the necessity for prevention of

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<sup>32</sup>Zyck, S., & Muggah, R. (2012). Preventive Diplomacy and Conflict Prevention: Obstacles and Opportunities. *Stability*, 68-75.

<sup>33</sup> Ibid

<sup>34</sup>Massimo, F. (2003, October). Preventive Diplomacy and International Violence Prevention: Beyond Intractability. Retrieved March 18, 2016, from Beyond Intractability Web Site: <http://www.beyondintractability.org/essay/violence-prevention>

conflict. A concept paper by Nigeria to the Security Council in 2010 noted the untapped potential of preventive diplomacy to transform the UN culture of “response after conflict” into “a culture of prevention”.<sup>35</sup> The appreciation that by the time conflicts become internationalized, the situation has in most cases worsened. It is therefore worthwhile to note that prevention of conflicts at the local level is easier and cost effective as opposed to waiting to handle the issue when it has become an international crisis. In doing so, the utilization of indigenous expertise and involvement of the communities in conflict prevention, de-escalation and limitation of the spread of the conflict is very necessary. It is clear from the literature reviewed that this area requires much more scholarly attention to generate knowledge to integrate indigenous initiative into the broader preventive diplomacy architecture.

It was also noted that indigenous conflict resolution approaches of preventive diplomacy, benefits and challenges were not covered in detail and there was no study done regarding the application of preventive diplomacy in conflict resolution among the Maasai. This research project will therefore make valuable input to the body of knowledge in the area of utilization of indigenous conflict resolution mechanisms where little has been documented.

## **1.8 Theoretical Framework**

The theory that the research adopted is the theory of conflict. It was developed by Johan Galtung who sought to understand the various dynamics and components of conflict. In his theory, Galtung posits that in understanding conflict, there are three main ingredients to conflict that is Contradiction (C), Attitudes (A) and Behavior (B).<sup>36</sup>

This theory explains contradiction to mean any situation that is the root of the conflict which comprises of the real or perceived inconsistency of goals among the conflict parties created by a mis-match between social values and social structure. Attitudes include the parties’ views and misunderstandings of each other and this includes such factors as fear, anger, mistrust, bitterness and hatred. Behavior on the other hand involves cooperation and coercion. All these factors have to be present for a conflict to ensure.<sup>37</sup>

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<sup>35</sup>United Nations Security Council. (2010). Preventive Diplomacy and Conflict Prevention. New York: United Nations.

<sup>36</sup>Ramsbotham, O., Miall, H., & Woodhouse, T. (2011). Contemporary Conflict Resolution: Concepts and Definitions (Vol. 3rd Edition). Cambridge: Polity Press.

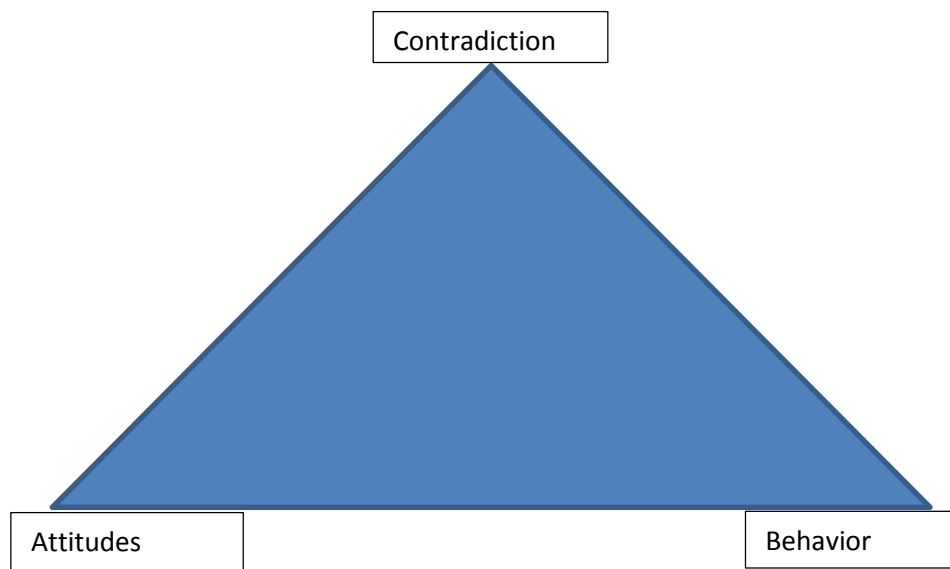
<sup>37</sup> Ramsbotham, O; Miall, H. & Woodhouse, T. (2011). Contemporary Conflict Resolution: Concepts and Definitions (Vol. 3rd Edition). Cambridge: Polity Press.

Since conflict is dynamic, these factors keep changing and influence one another. It is therefore evident that to be able to prevent a conflict, it is important to understand how to change any of the three components of a conflict highlighted by Galtung. Direct violence is terminated through changing the behavior of the conflict while structural violence is terminated through removal of structural inconsistencies and prejudices while cultural violence is prevented through altering of attitudes.<sup>38</sup>

With the concept of preventive diplomacy in conflict resolution gaining popularity, mechanisms for changing any of the three aspects of conflict proposed by Galtung needs to be identified early enough to prevent a start or escalation of a conflict.

As applied in this study therefore the theory of conflict will help in understanding the application of preventive diplomacy in indigenous conflict resolution by seeking to assess the way in which the Maasai apply preventive diplomacy to change any of the three ingredients of conflict.

Figure1: Theoretical Model



Source: Galtung's model of conflict from Ramsbotham et.al book Contemporary Conflict Resolution

## 1.9 Hypotheses

This study will test the following hypothesis:-

1. The Maasai utilize preventive diplomacy approaches in conflict resolution

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<sup>38</sup> Ibid

2. There are perceived benefits of preventive diplomacy in conflict resolution among the Maasai in Kenya
3. There are challenges in the application of preventive diplomacy in conflict resolution among the Maasai in Kenya

### **1.10 Scope and Delimitation of the Research**

The scope of this study was mainly to assess the application of preventive diplomacy in conflict resolution among the Maasai community. The researcher realizes that there are other factors that can be studied in assessing the application of preventive diplomacy but in this study the main focus was to study the application of preventive diplomacy as a conflict resolution mechanism specifically among the Maasai.

The study was also limited by resources and time constraints as well as the location. Realizing that the Maasai community land covers a wide area from Kenya into Tanzania, the study was only able to cover a small fraction of that area specifically the Kenyan side in Narok County.

### **1.11 Methodology**

#### **1.11.1 Research Design**

Mixed method research employs the combination of qualitative and quantitative approaches. The study employed this method because it best utilized the strength of both qualitative and quantitative research.

#### **1.11.2 Location**

The location of the study was in Erusiai Village, which is within Narok North constituency of Narok County in Kenya.

#### **1.11.3 Population**

The Maasai in Kenya are estimated to be 840,000.<sup>39</sup>The focus of the study was Narok County, Narok North constituency with a population of 175,588 out of which approximately 2000 people reside in Erusiai Village where the study will be based.

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<sup>39</sup>Kenya National Bureau of Statistics. (2009). The 2009 Kenya Population and Housing Census. Nairobi: Kenya National Bureau of Statistics.

#### **1.11.4 Sampling Technique**

The researcher utilized Non-probability sampling and specifically judgment sampling. The researcher used his own judgment to select the population members who were good prospects for accurate information. This is because the nature of information/data that the researcher was collecting was from specific respondents and thereby their selection was vital for the success of the study.

#### **1.11.5 Data Collection Procedure**

The researcher introduced himself to the respondents explaining that he is a student at the university. He then sought their consent to participate in the research.

#### **1.11.6 Data Collection Techniques**

Data collection was done using an interview guide due to the fact that majority of the respondents that the researcher was seeking information from have not gone through formal education. The researcher was able to sample ten elders who formed the sample size.

#### **1.11.7 Pilot Study**

A pilot survey was conducted before the main research. The interview guide was pre-tested using an identical sample of subjects who did not feature in the main study. This enabled the researcher to establish the validity and reliability of the research instrument by ensuring that the instrument was clear to the subjects and that it tested what it was meant to test.

#### **1.11.8 Data Analysis**

Quantitative and qualitative data collected was analysed by the researcher and this formed part of the critical review discussion in chapter four of the study.

#### **1.11.9 Ethical Consideration**

The researcher took all the necessary measures to get the relevant approvals to be able to conduct the study. This was further followed by strict adherence to the research code of practice where the information collected in confidence remains confidential and this was after the respondents consented to participate in the study.

Table 1: Proposed Work Plan

	<b>2016</b>
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Source: The researcher 2016



<b>Activity</b>	<b>JAN</b>	<b>FEB</b>	<b>MAR</b>	<b>APR</b>	<b>MAY</b>	<b>JUN</b>	<b>JUL</b>	<b>AUG</b>	<b>SEPT</b>	<b>OCT</b>
Proposal preparation										
Pilot survey										
Corrections to the Data Collection Instrument										
Collection of data										
Entry and Analysis of data										
Research Report Writing then Submission										

## **1.12 Chapter Outline**

1. Chapter one provides the background to the study, statement of the research problem, the research objectives and questions, justification, literature review and summary of literature gaps, theoretical framework, scope and limitation and the research methodology
2. Chapter discusses the approaches of preventive diplomacy
3. Chapter three discusses the benefits and challenges of preventive diplomacy
4. Chapter four provides the critical review of the study and analysis of data collected
5. Chapter five provides the summary, key findings, recommendations and areas for further research,

## CHAPTER TWO

### PREVENTIVE DIPLOMACY APPROACHES

#### 2.0 Introduction

Having introduced the concept of preventive diplomacy in the preceding chapter, this chapter analyses in detail the approaches used in preventive diplomacy. Some of the approaches that will be discussed include: - Negotiation, mediation, adjudicative dispute resolution, good offices, enquiry, conciliation, arbitration and judicial settlements as well as an attempt at looking at case studies in which these approaches have been used in conflict prevention.

#### 2.1 Preventive Diplomacy Mechanisms

Preventive diplomacy is a much cheaper option of preventing conflicts than to pay for post-war reconstruction or invest in several years of peace building. Preventive diplomacy can also reduce the need for military interventions. This is why the UN described it as one of the most efficient ways to engage in diplomacy.<sup>40</sup>

The Charter of the United Nations in article 33 expressly give precedence to the utilization of pacific means of resolving disputes especially where the disputes is likely to continue and hence threatening national, regional and international peace and security. The charter therefore encourages member states to seek solutions through engaging in negotiation, mediation, conciliation, arbitration, judicial settlement and also seek the assistance of regional agencies or the utilization of other peaceful means of their own choice to ensure peace and stability.<sup>41</sup>

It is apparent that the cost of peacekeeping operations are costly and this has caused the united nations to explore a more pragmatic approach that seeks to prevent and defuse conflicts to avoid costly operations and resource intensive post conflict reconstruction. It is for this reason that preventive diplomacy offers a more proactive approach with minimal costs incurred to bring a conflict to an end through for example negotiated settlements<sup>42</sup>

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<sup>40</sup>European Institute of Peace. (2016). *News & events: eip-explainer-what- 'preventive-diplomacy'*. Retrieved April 23, 2016, from European Institute of Peace Web Site: <http://eip.org/en/news-events/eip-explainer-what-%E2%80%98preventive-diplomacy%E2%80%99>

(European Institute of Peace, 2016)

<sup>41</sup>United Nations. (1945). *Charter of the United Nations and Statute of the International Court of Justice*. San Francisco: United Nations.

<sup>42</sup>Boutellis, A., Luck, E. C., & Mikulaschek, C. (2011). *Preventive Diplomacy and Mediation*. Istanbul: International Peace Institute.

The United Nations has recently significantly expanded the number of political missions and regional offices in Africa, Asia, and the Middle East. These missions and regional offices have been at the forefront in implementing preventive diplomacy in a bid to prevent disputes from happening and/or escalating into full blown conflicts. The indigenous communities too have been implementing conflict prevention for many years, elders and respected people in the society would be invited to help solve conflicts between family members, one clan against another as well as disputes pitting one community against another.

The use of preventive diplomacy approaches are conflict specific as no one single conflict is similar in nature, actors, issues and form with any other conflict and therefore different approaches are utilized for different conflict situations. 21<sup>st</sup> century scholars have delved deep into the various preventive diplomacy tools or approaches in a bid to better understand and provide solutions to the endemic problem of conflict. Some of these approaches have been grouped as rights-based, power-based and interest based approaches to conflict prevention.

### **2.1.1 Rights-Based Approach**

According to Maiese, rights are independent standards of equality or legitimacy that are either publicly known or formally rooted in law. These standards include mutuality, practice, equality and seniority.<sup>43</sup>“This approach therefore means a deliberate and unequivocal focus on allowing people to live with dignity. The International Human Rights Framework emphasizes on rights of the people not to be discriminated upon and where inclusivity is essential for development.<sup>44</sup>

As Noll notes, rights-based approach is usually carried out through the legal system but this does not exclude the use of other systems such as arbitration and grievance procedures. He further points out that rights enforcement involves a process of naming, blaming and claiming. The person who has violated the rights of another is identified. Blaming occurs when a link is established between the violator and the injury. Claiming entails the process of demanding constituting a demand for redress.<sup>45</sup>

According to Noll rights enforcement is applicable when one party to a conflict has consistently oppressed another party, it is also appropriate when a party declines to admit an injustice or injury. However, if this is the only method of resolution, the conflict can be exacerbated as it

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<sup>43</sup>Maiese, M. (2004). Interests, Rights, Power and Needs Frames. Beyond Intractability, 1-5.

<sup>44</sup>Care International. (2016). *Rights Based Approach: Conflict and Rights Based Approaches*. Retrieved April 28, 2016, from Care International Web Site: <http://conflict.care2share.wikispaces.net/Rights+Based+Approach>

<sup>45</sup>Noll, E. D. (1999, August). Peacemaking: Power, Rights and Interests. Retrieved April 28, 2016, from A Noll Associates Web Site: <http://www.nollassociates.com/Columns/Peace7.htm>

will create a situation where people are conditioned to name, blame and claim therefore limiting the process of peace and cooperative resolution of conflict.<sup>46</sup>

The rights-based approach to conflict resolution is based on a normative principle generally acknowledged by the parties to the dispute. The two institutions which may utilize the rights-based approach to deal with international conflict settlement are the International Court of Justice (ICJ) and the International Criminal Court (ICC).<sup>47</sup>

### **2.1.1.1 Adjudicative Dispute Resolution**

Adjudication entails a legal process where by an arbiter or judge looks at the evidence and arguments and also the legal reasoning presented by the differing sides or petitioners to arrive at a decision which determines the rights and obligations between the parties involved.<sup>48</sup> It also includes decision making by a judge, an administrative tribunal or quasi-judicial tribunal or by an arbitrator.<sup>49</sup> Adjudicative dispute resolution therefore means that a judge or arbitrator makes a legally binding verdict for the parties.<sup>50</sup>

In the international system, the International Court of Justice (ICJ) is a very good example of a dispute/conflict resolution mechanism which clearly utilizes the adjudicative dispute resolution approach. One of the disputants refers the case to the ICJ and when a decision is made by the ICJ it is binding on all parties to the dispute.

Schwebel et al described the functions of the International Court of Justice to *inter alia* settle international disputes through peaceful means. This provides an avenue for states to be able to seek legal redress and/or opinion to settle issue which may bring disharmony and threaten international peace and security. The ICJ therefore complements the efforts made by the United Nations to bring about peace and stability in the world.<sup>51</sup>

A recent case involves a dispute between Kenya and Somalia over the sea border at the Indian Ocean. ICJ therefore requested by Somalia to adjudicate on the basis of international law, the

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<sup>46</sup> Ibid

<sup>47</sup> Abu, D. (2015, February 11). *Pulse: History of Needs Based Conflict Resolution*. Retrieved April 29, 2016, from LinkedIn Web Site: [https://www.linkedin.com/pulse/history-needs-based-conflict-resolution-daniel-abu?trk=pulse-det-nav\\_art](https://www.linkedin.com/pulse/history-needs-based-conflict-resolution-daniel-abu?trk=pulse-det-nav_art)

<sup>48</sup> Wikipedia. (2016). Article: Adjudication. Retrieved April 28, 2016, from A Wikipedia Web Site: <https://en.wikipedia.org/wiki/Adjudication>

<sup>49</sup> Morris, C. (2002). Definitions in the Field of Conflict Transformation. *Peacemakers*, 1-10.

<sup>50</sup> Ibid

<sup>51</sup> Schwebel, S. M., & Prager, D. (1999). The International Court of Justice: As a Partner in Preventive Diplomacy. *UN Chronical*, 56.

correct maritime boundary between Somalia and Kenya in the Indian Ocean.<sup>52</sup> The major motivator in this dispute is a likelihood of offshore oil and gas reserves in the Indian Ocean triangle. Each country wants to extend its border and hence acquire a larger area for exploration.

Indigenous communities also practiced adjudicative dispute resolution mechanisms mainly through an arbiter, usually elders or a respected member of the society who listens and reviews evidence provided then makes a decision which would be binding on all the parties to the dispute. This approach is forming what has come to be known as Alternative Dispute Resolution (ADR) mechanisms.

A case in point is the utilization of the Gacaca Courts in Rwanda after the genocide of 1994. The Gacaca court is a system of community justice motivated by the customs Rwanda. Gacaca has been translated to mean justice amongst the grass. In this system, the community participated in the selection of the arbitrator who will adjudicate over the cases. This system embraced restorative justice when repentance and reconciliation was accepted and which earned the perpetrator a lower punishment.<sup>53</sup> Wanende observed that restorative justice opens avenues for reconciliation and for the perpetrators to be reintegrated into the society as the main focus is not necessarily on punishment. The system ensures that the interests of all those who have been affected by the crimes and also considers the return of the suspects back to the community. Clearly this is a noble concept that can be adopted as it has great potential to bring about reconciliation and sustainable peace.<sup>54</sup>

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<sup>52</sup>Punjabi, P. (2015). *Maritime Delimitation of the Indian Ocean (Somalia Vs Kenya)*. Mumbai: The Dhirubhai Ambani International School Model United Nations.

<sup>53</sup>United Nations. (2014, March). *About the Program: Outreach Programme on the Rwanda Genocide and the United Nations*. Retrieved April 28, 2016, from A United Nations Web Site:  
<http://www.un.org/en/preventgenocide/rwanda/pdf/Backgrounder%20Justice%202014.pdf>

<sup>54</sup>Wanende, E. O. (2013). *Assesing the Role of Traditional Justice Systems in Resolution of Environmental Conflicts in Kenya*. Nairobi: University of Nairobi.

### **2.1.2 Power-Based Approach**

Noll defines power as being the capacity to have one's way against the desires of another.<sup>55</sup> Power-based approach as the International Strategic Research Organization's (ISRO) point out is the most destructive conflict management approach. This is due to the fact that the main objective is to persuade or coerce the other side to accept a particular solution. The proponents of this approach believe in applying sufficient punishment to the other side in order to make them give in to pressure.<sup>56</sup>

Power-based approach mainly seeks a win-lose outcome. This is true during war where the victory on one side means a loss on the other side. In preventive diplomacy therefore the essence is to prevent the conflict from escalating into a fully-fledged war through mediation and negotiation.

This approach includes violent and non-violent forms of coercion that is war and diplomacy. This was the school of thought held by realist theory proponents who argued that international security is best achieved through the action of great powers who can create regional power balances in unstable regions across the world.<sup>57</sup>

A clear example is the conflict in Southern Sudan. The country overwhelmingly voted to secede from Sudan in the year 2011 after a long civil war. Soon afterwards, there was rivalry between the president Salva Kiir who is from the Dinka community and the deputy presidential Machar who is from the Nuer community. Kiir sucked his deputy over an alleged coup and hence a conflict ensued pitting the two communities. It has been several months of negotiation and mediation led by the Inter-Governmental Authority on Drought and Development (IGADD) and the African Union (AU) that saw the coming together of the two leaders to form a unity government.

#### **2.1.2.1 Mediation**

Mediation can be defined as the process where the disputing parties involve a third party to help them come up with an agreement and a solution to their problem. Mediation is premised on the assumption that the provision of a conducive environment can aid the parties to a conflict to begin improving their relationship and cultivate cooperation amongst themselves. The

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<sup>55</sup>Maiese, M. (2004). Interests, Rights, Power and Needs Frames. Beyond Intractability, 1-5.

<sup>56</sup>International Strategic Research Organization. (2008). USAK Yearbook of International Politics and Law (Vol. 1). Ankara, Turkey: International Strategic Research Organization.

<sup>57</sup>Abu, D. (2015, February 11). *Pulse: History of Needs Based Conflict Resolution*. Retrieved April 29, 2016, from LinkedIn Web Site: [https://www.linkedin.com/pulse/history-needs-based-conflict-resolution-daniel-abu?trk=pulse-det-nav\\_art](https://www.linkedin.com/pulse/history-needs-based-conflict-resolution-daniel-abu?trk=pulse-det-nav_art)

product of mediation can be limited in scope as it may be there only to deal with a specific issue to prevent or contain a conflict. It can also be done to address a broad range of concerns leading to a comprehensive peace agreement.<sup>58</sup>

Mediation is thus a process where a third party tries to bring together the disputing parties either having been invited or having offered to help the parties to find a solution to the problem they are confronted with. The objective of the mediator is to change the views or conduct of the parties without the use of force or threats of legal action.<sup>59</sup> Mediators are very resourceful individuals who can add value to the process due to their vast knowledge, experience and expertise. They can also ensure the availability of resources for making the mediation process successful.

Mediation is a voluntary choice by the disputing parties to bring to an end their dispute or to seek a solution to a problem. This means the start or continuation of the mediation process lies with the parties. This is because at any stage of the process they can make a choice with to continue or not especially as they seek to either control the outcome or the process of the mediation. Another factor which can greatly impact on the mediation is the freedom of the parties to either accept or reject any parts of the process or the final agreement. Mediation functions on an impromptu basis and after the parties reach a compromise; the mediator then leaves the arena of the conflict and monitors the implementation of the agreement and encourages the parties to stick to the agreement.<sup>60</sup>

The mediation process is divided into three phases, the pre-mediation, mediation and post mediation or the implementation phase. The success of the mediation is pegged on how well all the three phases of the mediation process have been carefully planned. It is imperative to point out that all these phases of the mediation process must be done as skipping any will have catastrophic effects on the entire process. This is because fundamental information which can aid the success of the process can be missed and this can critically dent the reputation of the mediator and portray inexperience, lack of preparedness and may lead to the parties not trusting the credibility of the process. It is for this reason that each phase of the mediation process is carefully discussed below.

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<sup>58</sup>United Nations. (2012). *United Nations Guidance for Effective Mediation*. New York: United Nations.

<sup>59</sup>Bercovitch, J. (2004, January). *Essay: International Mediation and Intractable Conflict*. Retrieved April 26, 2016, from Beyond Intractability Web Site: <http://www.beyondintractability.org/essay/med-intractable-conflict>

<sup>60</sup> Ibid





### **2.1.2.1.1 Pre- Mediation Phase**

The pre-mediation phase is a very important phase in the mediation process. It is during this phase that initial contacts are established; the process of mediation is explained and the basic issues in the conflict are identified. It is at this stage that the mediator introduces himself/herself and the role in the mediation process. The disputing parties also allowed an opportunity to introduce themselves and based on the issues identified and agenda for the mediation process is developed. It is also important to point out that it is at this phase that the rules of engagement are outlined which includes respect among all parties, confidentiality, the roles of the disputing parties in the process and that the mediator is only there to facilitate dialogue.

Mwagiru argues that the decision to mediate in a conflict is best made on the basis of a strict cost-benefit analysis from the perspective both of the country involved and the mediator as an individual. Having made this decision, it is important to analyze the conflict in question carefully. This means examining the history of the conflict, its causes and its development. This analysis of the conflict should involve identifying the parties to the conflict and drawing up a strategic map of all the actors involved. This requires examining the relationship between the parties and between them and the other actors, so as to identify their sources of support, finances and so on.<sup>61</sup>

It is therefore important to point out that the success of any mediation process depends to a large extent to the level of preparedness of the mediator and the disputing parties during the pre-mediation phase another important factor is the timing for a mediator to intervene this has come to be referred to as the hurting stalemate phase or “ripe moment”. According to William Zertman, the concept of a ripe moment centers on the parties' perception of a mutually hurting stalemate, optimally associated with an impending, past or recently avoided catastrophe.<sup>62</sup> It is imperative to note that finding a ripe moment requires research and intelligence studies to identify the objective and subjective elements amongst the disputing parties and the regarding the conflict itself. The pre-mediation phase is therefore critical in ensuring the relevant information and preparation is done in order to enhance the mediation process.

### **2.1.2.1.2 Mediation Phase**

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<sup>61</sup>Mwagiru, M. (2004). *Diplomacy: Documents, Methods and Practice*. Nairobi: Institute of Diplomacy and International Studies.

<sup>62</sup>Zertman, I. W. (2001, September). The Timing of Peace Initiatives: Hurting Stalemates and Ripe Moments. *The Global Review of Ethnopolitics*, 1(1), 8-18.

Mediation enlists an outsiders help to bring the disputing parties to a negotiating table. The mediator comes in either through invitation or through offering himself/herself to help the parties to find a solution and bring about an end to their conflict. The objective of the mediator is to affect, change, resolve, modify or influence the parties to end the conflict.<sup>63</sup> During the phase the mediator allows the disputing parties to negotiate. And as Mwangi notes, a useful strategy for the mediator to adopt is to fractionate the issues.<sup>64</sup> This entails grouping the issues in the conflict into those about which there is no serious disagreement and those that are more difficult. This then allows the parties to feel psychologically that they are achieving something once they reach an agreement on the non-contentious issues.

It is necessary to note that the process of conflict resolution through the utilization of mediation can either be short or it can take a long time depending on the nature of the conflict and the responsiveness of the parties to agree on certain fundamental issues relating to the incompatibility which caused the conflict in the first place. A conflict such as the one pitting Israel and Egypt took a shorter time to be resolved through mediation. This became known as the Camp David Accords spearheaded by US President Jimmy Carter while the Sudan conflict took a long time to resolve. It is therefore imperative to note that the mediation process can either take a short time or drag for an extended period of time. The mediator therefore needs to structure the process in such a way that progress is being made which ultimately leads to the signing of an agreement by the parties.

#### **2.1.2.1.3 Post-Mediation Phase**

The post- Mediation Phase entails the implementation of the agreement. This phase is very critical as each party seeks to observe whether the other party was serious and willing to abide by the terms of the agreement. Mwangi notes,

“The implementation stage opens up the structure of the mediation process because it brings in many other actors who until this stage were not directly involved in the mediation process and who are important to the post-mediation phase because they help

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<sup>63</sup>Bercovitch, J. (2004, January). *Essay: International Mediation and Intractable Conflict*. Retrieved April 26, 2016, from Beyond Intractability Web Site: <http://www.beyondintractability.org/essay/med-intractable-conflict>

<sup>64</sup>Mwangi, M. (2004). *Diplomacy: Document, Methods and Practice*. Nairobi: Institute of Diplomacy and International Studies.

in implementation of the agreement either as financiers or election monitors and such like.’<sup>65</sup>

A major problem during the post-mediation phase usually would be selling the agreement to their constituents by those who were involved in the mediation process, this however can be overcome by enumerating the benefits to be reaped by all parties as a result of implementation of the agreement. Proksch indicates that a follow-up meeting is very necessary during implementation of the agreement as unexpected difficulties that could be experienced during the implementation can be resolved without stalling the implementation process.<sup>66</sup> He further points out that a follow-up meeting will enable modification of the agreement as well as consolidate the achievements made and this will underscore the feeling that something important has been jointly achieved.

#### **2.1.2.1.2 The Kenyan Disputed Election of 2007/2008**

PD plays a key role in the prevention of conflicts especially when undertaken early it has proved to be cost effective and eliminates the danger of a conflict spiraling out of control resulting in catastrophic results such as humanitarian crises and loss of lives and property. The utilization of PD opens avenues for dialogue between the disputing parties leading to compromises and ultimately to an agreement. This is very true regarding the situation in Kenya during the disputed presidential elections of 2007/2008. The dispute ensued between December 2007 and February 2008 after the electoral commission declared Mwai Kibaki President. In the build up to the 2007 elections, the two major parties seeking for election – the Orange Democratic Movement (ODM) and Party of National Unity (PNU) - were strongly supported by ethnically-rooted political groupings.<sup>67</sup>

Immediately after the announcement of the results by the Electoral Commission, violence erupted driven by ethnic animosity against the perceived opponents and this resulted in the death of over 1300 people and over 600,000 people were displaced. This triggered action by the international community and several mediators were sent by both the United Nations and the African Union.

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<sup>65</sup>Mwagiru, M. (2004). *Diplomacy: Document, Methods and Practice*. Nairobi: Institute of Diplomacy and International Studies.

<sup>66</sup>Proksch, S. (2014). *Conflict Management*. Vienna: SpringerGabler.

<sup>67</sup>International Coalition for the Responsibility to Protect. (2016). Crises: The Crisis in Kenya. Retrieved April 28, 2016, from International Coalition for the Responsibility to Protect: <http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-kenya#1>

According to the International Coalition for the Responsibility to Protect,

“Efforts to resolve the crisis peacefully through dialogue was began by South Africa’s Archbishop Desmond Tutu. The US Assistant Secretary of State for African Affairs, Jendayi Frazer also called on the parties to negotiate and end the conflict. Former African presidents Benjamin Mkapa (Tanzania), Joaquim Chissano (Mozambique), Ketumile Masire (Botswana) and Kenneth Kaunda (Zambia) arrived in Kenya ahead of the African Union Chairman, Ghanaian President John Kufuor to have a discussion with President Kibaki. However, all these efforts did not broker a successful peace agreement”.<sup>68</sup>

On 10<sup>th</sup> of January 2008, the disputing parties agreed to have former UNSG, Kofi Annan, Mrs. Graca Machel and Benjamin Mkapa former Tanzanian President mediate the conflict. The negotiations continued both with the representatives from both sides and also with President Kibaki from the Party of National Unity (PNU) and Raila Odinga of the Orange Democratic Movement (ODM being involved by the mediators and on 28<sup>th</sup> of February 2008, an agreement was reached to form a coalition government where Mwai Kibaki will be President and Raila Odinga the Prime Minister. This marked the end of the violence and reinforced the need for early intervention in conflict prevention as this led to cessation of animosity in the country and that created an enabling environment for the leaders to form a government.

### **2.1.3 Interest-Based Approach**

Interests are the needs, desires, concerns and fears that underlie people’s positions. It is therefore the foundation for positions in negotiations. Interests explain why a party has taken a certain position. The goal of any interest-based approach is to allow parties to explore solution that will address the most vital interest of both parties.<sup>69</sup>It is important to note that when conflicts are defined in terms of interests rather than power or rights based, people tend to cooperate rather than compete and therefore this identification and acknowledgment of

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<sup>68</sup>International Coalition for the Responsibility to Protect. (2016). *Crises: The Crisis in Kenya*. Retrieved April 28, 2016, from International Coalition for the Responsibility to Protect: <http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-kenya#1>

<sup>69</sup>Center for Early Dispute Resolution. (2016). *Toolbox: Conflict Management Options Available Through DoDEA'S Center for Early Dispute Resolution*. Retrieved April 28, 2016, from A USA Department of Defence Education Activity Web Site: [www.dodea.edu/offices/CEDR/upload/CEDT\\_Toolbox.pdf](http://www.dodea.edu/offices/CEDR/upload/CEDT_Toolbox.pdf)

interests often leads to a more creative solution and in most cases a win-win solution is arrived at.<sup>70</sup>

This approach is also called the needs based or the cooperation based approach to conflict resolution. It developed after the Second World War and scholars such as Fisher, Burton and Kelman developed different methods of the interest-based approach to conflict resolution. Fisher came up with the integrative bargaining or principled negotiation approach while Burton developed the analytic or interactive problem-solving method.<sup>71</sup>

Abu notes that the integrative bargaining method encompasses negotiation in which the emphasis is on merits of the issues and that it entails concession making and the search for mutually beneficial solutions. The interest based or problem solving approach is a method where third party consultation or informal mediation begins with an analysis of the political needs and fears of the disputing parties.<sup>72</sup>

Utilization of this approach has gained prominence owing to the fact that the outcome of the negotiation favors the disputing parties. The application of track two diplomacy in this approach is pertinent where non-state actors are involved in finding a lasting solution to a dispute. A multi-stakeholder approach brings with it expertise, resources to facilitate conflict prevention or utilized during the negotiation process as well as impressing upon the disputants that it is in their own interest and that of the international community that a lasting solution is put in place to prevent conflict.

### **2.1.3.1 Facilitated Negotiation**

Marsh defines facilitation as the process by which parties are prepared for negotiation or mediation. He further states that in larger conflicts, the parties often require facilitation before they are ready to negotiate. Facilitation therefore aids disputants to point out their areas of concern, delineate legitimacy and look at possible areas cooperation and the methods of their interaction.<sup>73</sup> Negotiation can be understood to mean a dialogue between disputing parties who have identified that they have a problem and hence a need to find a way of solving the impasse.

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<sup>70</sup>Noll, E. D. (1999, August). *Peacemaking: Power, Rights and Interests*. Retrieved April 28, 2016, from A Noll Associates Web Site: <http://www.nollassociates.com/Columns/Peace7.htm>

<sup>71</sup>Abu, D. (2015, February 11). *Pulse: History of Needs Based Conflict Resolution*. Retrieved April 29, 2016, from LinkedIn Web Site: [https://www.linkedin.com/pulse/history-needs-based-conflict-resolution-daniel-abu?trk=pulse-det-nav\\_art](https://www.linkedin.com/pulse/history-needs-based-conflict-resolution-daniel-abu?trk=pulse-det-nav_art)

<sup>72</sup> Ibid.

<sup>73</sup>Marsh, S. R. (2000). *What, How and Why Facilitate*. Retrieved April 29, 2016, from Alternative Dispute Resolution Resources Web Site: <http://adrr.com/adr3/facile1.htm>

Maiese posits that negotiation happens because the disputants have an intention of resolving a challenge facing them.

Spangler argues that under the interest-based approach to conflict resolution, there is a negotiation strategy called interest-based bargaining in which parties collaborate to find a win-win solution to their dispute. This is done through developing mutually beneficial agreements based on the interests of the disputants. He further notes that this process is integrative which means there is a potential for combining the interest of the parties in ways that create joint value as parties make tradeoffs across issues in order for both sides to be satisfied with the outcome.<sup>74</sup>

The process of negotiation can be categorized into three stages which must carefully be done well if a successful negotiation is to be achieved. According to [skillsyouneed.com](http://skillsyouneed.com), there are six stages of negotiation which include preparation, discussion, clarification of goals, negotiation towards a win-win outcome, agreement as well as implementation of a course of action.<sup>75</sup> In this study this stages will be grouped into three stages i.e. pre-negotiation, negotiation and post-negotiation stage. Pre-negotiation will entail the preparation stage, negotiation stage will be the discussion, clarification goals and the negotiation towards an agreement and the post-negotiation stage will be the monitoring and implementation of the agreement.

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<sup>74</sup>Spangler, B. (2003). *Essay: Integrative or Interest-Based Bargaining*. Retrieved April 29, 2016, from Beyond Intractability Web Site: [www.beyondintractability.org/essay/interest-based-bargaining](http://www.beyondintractability.org/essay/interest-based-bargaining)

<sup>75</sup>Skills You Need. (2016). *Interpersonal Skills: What is Negotiation*. Retrieved April 29, 2016, from Skillsyouneed Web Site: [www.skillsyouneed.com/ips/negotiation.html](http://www.skillsyouneed.com/ips/negotiation.html)

### **2.1.3.1.1 Pre-Negotiation Stage**

As the adage goes, if you fail to plan you are planning to fail. It is therefore imperative that proper planning is done as this will help in allowing time to research on facts and on the stakeholders, do data analysis, identify the interests and positions and build a relationship based on trust.<sup>76</sup> A decision needs to be taken as to when and where the meeting will take place to discuss the problem and also a careful analysis of who should be present and /or invited to the meeting. During this stage, pertinent facts of the situation are identified in order to avoid further disagreements and unnecessary delays.<sup>77</sup>

This stage is very important in a negotiation process as it prepares the groundwork necessary for the subsequent stages of the negotiation. It is during this stage that parties describe their understanding of the situation. This stage helps to identify the different interests and positions of the disputants as they put forward the case as they see it. It is at this stage too that a critical assessment is made regarding trustworthiness, competency, likeability and whether the interests are aligned with the other side. The goals, viewpoints and interests of the parties in the dispute need to be clarified. The objective of this is to establish common ground and also to seek clarification in areas which may not have been very clear hence avoiding misunderstandings which may likely affect the outcome of the process.

### **2.1.3.1.2 Negotiation Stage**

During this stage, the parties engage in a give and take bargaining where the ultimate objective is a win-win for all. It is important that the parties to the dispute feel that they have been able to gain something from the negotiation and that hardline stands have been transformed into compromises which are positive alternatives. When a win-win situation is arrived at, it would be likely that long lasting relationships will be built and a sustainable outcome would be achieved.<sup>78</sup> The culmination of this stage will be the signing of the agreement where the parties commit themselves to fulfill their part of the bargain towards ensuring peace.

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<sup>76</sup>Watershed Associates. (2016). *Learn: Negotiation Stages Introduction*. Retrieved April 29, 2016, from Watershed Associates Web Site: [www.watershedassociates.com/learning-center-item/negotiation-stages-introduction.html](http://www.watershedassociates.com/learning-center-item/negotiation-stages-introduction.html)

<sup>77</sup> Ibid.

<sup>78</sup>Watershed Associates. (2016). *Learn: Negotiation Stages Introduction*. Retrieved April 29, 2016, from Watershed Associates Web Site: [www.watershedassociates.com/learning-center-item/negotiation-stages-introduction.html](http://www.watershedassociates.com/learning-center-item/negotiation-stages-introduction.html)



### **2.1.3.1.3 Post-Negotiation Stage**

This is the result of the negotiation/bargaining stage. During this stage, it is important to ascertain that the parties have the capacity to follow through with the things they said they would do. Common interests are therefore written and a comprehensive agreement is done. It is important to point out that depending on the nature of the dispute or conflict, it may either take a short time to reach an agreement or it may take several months or even years. This stage seeks to ensure that a recurrence of the conflict is not experienced through enhancing commitment and actual implementation of the agreement. It is at this point that each party to the conflict fulfills their part of the bargain by doing what they promised that they would do. It is in implementing what each party said they would do that each party will have trust and confidence in the other and also relationship building is enhanced. It is also during this stage that mistrust happens if either party does not fulfill their promises and this poses a risk in the successful implementation of the agreement and may lead to a recurrence of the conflict.

### **2.1.4 Other Approaches**

#### **2.1.4.1 Early Warning Mechanisms**

Early warning can be defined as a tool of preventive diplomacy which aims at early detection of changes that may result in the eruption of violence.<sup>79</sup> This concept originally was only being utilized by the military as prevention from surprise attacks but has recently started being utilized as a measure for conflict prevention.<sup>80</sup>

Early warning mechanisms therefore entail collection of data, analysis and then an action is taken. The United Nations and various regional organizations have come up with early warning mechanisms for the regions. The African continent has experienced a tumultuous period in the last century with wide spread conflicts it is no wonder that the African Union for example has developed an early warning mechanism which consists of an information system that can provide data and indicators that will be used to forecast the emergence of conflict.

The African Peace and Security Architecture is meant to provide a framework for prevention, management and resolution of conflicts, post-conflict reconstruction and development in the continent. This is spearheaded by the Union's Peace and Security Council (PSC). One of the

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<sup>79</sup>van Walraven, K., & van der Vlugt, J. (1996). *Conflict Prevention and Early Warning in the Political Practice of International Organizations*. London: Macmillan.

<sup>80</sup> Ibid.

objectives of the council is to develop a continental early warning system as one of the five pillars of the African Peace and Security Architecture.<sup>81</sup>

The African Peace and Security Architecture has six elements namely; the peace fund, the panel of the wise, the African Standby Force, department of peace and security, the regional economic communities and regional mechanisms and the continental early warning system.<sup>82</sup> It is disheartening to note that despite a robust early warning system by the African Union Commission, there seems to be laxity in taking action whenever a situation which will bring about a breach of the peace emerges.

#### **2.1.4.2 Responsibility to Protect**

Discussions on R2P began in the 1990 following the Rwandan genocide and the Balkan tragedy. The international community began debating on how to effectively react when citizens' human rights are grossly and systematically violated. The question that needed clarification is whether countries have unreserved sovereignty when it comes to their internal matters or whether intervention on humanitarian grounds can be done by the international community.<sup>83</sup>

The matter on non-interference in the internal affairs of states is clearly stated in article 1 (7) of the United Nations Charter which states "Nothing contained in the present charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state".<sup>84</sup>

This therefore prompted the Canadian Government to form a commission on intervention and state sovereignty as a response to a question raised by the then United Nations Secretary General (UNSG), Kofi Annan. The commission deliberated on the issue and presented their report to the UNSG with the findings that sovereignty not only gives a state the right to control its internal affairs but also confers on the state the primary responsibility for protecting the people within its borders. They also recommended that when a state fails to do this either

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<sup>81</sup>African Union Commission. (2015, November 23). *African Union Peace and Security: The Continental Early Warning System (CEWS)*. Retrieved April 29, 2016, from African Union Web Site: [www.peaceau.org/en/page/28-continental-early-warning-system-cews](http://www.peaceau.org/en/page/28-continental-early-warning-system-cews)

<sup>82</sup>Ibid.

<sup>83</sup>United Nations. (2014, March). *About the Program: Outreach Programme on the Rwanda Genocide and the United Nations*. Retrieved April 28, 2016, from A United Nations Web Site: <http://www.un.org/en/preventgenocide/rwanda/pdf/Backgrounder%20Justice%202014.pdf>

<sup>84</sup>United Nations. (1945). *Charter of the United Nations and Statute of the International Court of Justice*. San Francisco: United Nations.

through lack of capacity or lack of willingness, the responsibility shifts to the wider international community to ensure the protection of the people.<sup>85</sup>

The community of nations under the umbrella of the UN in the 2005 World Summit committed themselves to safeguarding human rights specifically to prevent genocide, war crimes, ethnic cleansing and crimes against humanity. It became apparent that to achieve this goal, the concept of responsibility to protect will need to be embraced and supported by the international community. The concept has three pillars which are that each nation has the responsibility of ensuring the protection of their populations and two, in the event of failure by the nation to protect their population, the community of nations has a responsibility to intervene and finally, the international community has a duty to use appropriate diplomatic, humanitarian and other means to protect people from these crimes. If a country clearly fails to protect its people, the international community must be prepared to take appropriate collective action to protect people, in accordance with the UN Charter.<sup>86</sup>

The Rwandan genocide was a clear example of in action by the international community which resulted in the deaths of millions of people. The United Nations had information that genocide was about to happen in Rwanda since there were UN forces in Rwanda but the UNSC did not act to avert a catastrophe from happening. This created a situation where the African continent felt that the international community cared less about the human rights and dignity of the African people in comparison to others.

The Kosovo crisis soon after the Rwanda genocide ensued and again the response of the international community was slow and had it not been for the intervention of the North Atlantic Treaty Organization (NATO), the situation in Kosovo would have deteriorated further resulting in the loss of life for many people.<sup>87</sup>

Another clear example of the application of responsibility to protect is during the Libyan crisis. Civilians in Libya started holding demonstrations against the government of former President Muammar Gaddafi and in trying to silence them; the government used military force to suppress the civilian protests. Fearing mass atrocities, the international community took a

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<sup>85</sup>United Nations. (2014, March). *About the Program: Outreach Programme on the Rwanda Genocide and the United Nations*. Retrieved April 28, 2016, from A United Nations Web Site:

<http://www.un.org/en/preventgenocide/rwanda/pdf/Backgrounder%20Justice%202014.pdf>

<sup>86</sup>United Nations General Assembly. (2005). 2005 World Summit Outcome. *2005 World Summit Outcome* (pp. 1-38). New York: United Nations.

<sup>87</sup>United Nations. (2014, March). *About the Program: Outreach Programme on the Rwanda Genocide and the United Nations*. Retrieved April 28, 2016, from A United Nations Web Site:

<http://www.un.org/en/preventgenocide/rwanda/pdf/Backgrounder%20Justice%202014.pdf>

timely and decisive response under the responsibility to protect framework to protect the people through an array of economic, political, and military measures.<sup>88</sup> According to the Outreach Program on the Genocide in Rwanda and the UN, It also presented the intervention of the United Nations in the Libyan crisis. It therefore pointed out that,

The responsibility to protect doctrine was informed the decision by the UNSC condemning abuse of human rights in Libya and asked the Libyan government to ensure that they protect their people against violence. In addition to referring the situation to the attention of the international criminal court, they also imposed sanctions on the authorities in Libya.<sup>89</sup>

The Libyan authorities failed to honor the resolution of the United Nations Security Council and this prompted the Council to call on member states to take all necessary action to protect civilians in Libya. This was followed soon after by airstrikes by NATO acting on the resolution by the UNSC bringing to an end the reign of President Muammar Gaddafi in 2011. During the same year, Ivory Coast was going through a difficult political transition. Following elections violence erupted and Gbagbo and Ouattara supporters were accused of perpetrating violence against the populations.<sup>90</sup>

The realization that the two camps were not taking action towards protecting their civilians, the United Nations Security Council unanimously adopt resolution 1975 which called for immediate cessation of attacks on civilians. Acting on the principle of responsibility to protect, United Nations Security Council reaffirmed that the United Nations Operation in Côte d'Ivoire (UNOCI) could use all necessary means to protect life and property. The United Nations Operation in Côte d'Ivoire began military operations to protect civilians from mass atrocities committed by both camps. Gbagbo was finally arrested by President Ouattara bringing to an end his tenure as president of Ivory Coast. He was later handed over for prosecution at the ICC for crimes against humanity charges.<sup>91</sup>

It has therefore been proved that the intervention of the international community under the principle of responsibility to protect is necessary to protect the civilian populations against

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<sup>88</sup>International Coalition for the Responsibility to Protect. (2016). *Crises: The Crisis in Libya*. Retrieved September 29, 2016, from International Coalition for the Responsibility to Protect Web Site: <http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-libya>

<sup>89</sup>United Nations. (2014, March). *About the Program: Outreach Programme on the Rwanda Genocide and the United Nations*. Retrieved April 28, 2016, from A United Nations Web Site: <http://www.un.org/en/preventgenocide/rwanda/pdf/Backgrounder%20Justice%202014.pdf>

<sup>90</sup> Ibid

<sup>91</sup> Ibid

crimes against humanity and other mass atrocities committed by the regimes or other belligerent groups. This debate on the right time for intervention however still continues but it is imperative that the United Nations and the regional bodies takes a decisive role in bringing about a collective understanding and appreciation of the changing landscape in the international system in as far as new threats that would not only endanger international peace and security but also seek to readjust the Westphalia understanding of State sovereignty in order to allow for prevention and protection of the human rights of all people in the community of nations.

### **2.1.5.3 Good Offices**

Good offices are a preventive diplomacy approach where a third party offers good offices to the conflicting parties to facilitate dialogue and to assist them towards peaceful settlement of disputes.<sup>92</sup> Once negotiations have started, the functions of good offices are considered to be complete.<sup>93</sup> The United Nations Secretary General has occasionally used what is termed as his good offices meaning his prestige and the weight of public opinion to bring about peaceful settlement of disputes.<sup>94</sup>

The then UNSG Kofi Annan utilized his good offices to negotiate a settlement in a dispute between Iraq and the United States of America over arms inspection in Iraq. He not only used his good offices but also threatened Iraq that if no agreement is reached the UN Security Council will take an action over it to ensure Iraq allows the continuation of the United Nations inspections.<sup>95</sup>

Jimmy Carter, the President of the United States of America also used his good offices to bring to the table for negotiations Israel and Egypt in 1978 as a result of a conflict over territory. This intervention which resulted into the Camp David Accords was signed by Egyptian President Anwar El Sadat and Israeli Prime Minister Menachem Begin on 17 September 1978, following twelve days of secret negotiations at Camp David. The signing of this agreement was historic especially because numerous attempts had been made to bring peace to the Middle East. It is important to point out that several Middle East Countries were opposed to the agreement but

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<sup>92</sup>UN Watercourses Convention. (2016). *Online User's Guide: Article 33, Good Offices and Mediation*. Retrieved April 29, 2016, from UN Watercourses Convention Web Site: [www.unwatercoursesconvention.org/the-convention/part-vi-miscellaneous-provisions/article-33-settlement-of-disputes/33-1-5-good-offices-and-mediation/](http://www.unwatercoursesconvention.org/the-convention/part-vi-miscellaneous-provisions/article-33-settlement-of-disputes/33-1-5-good-offices-and-mediation/)

<sup>93</sup> Ibid.

<sup>94</sup>University of Colorado. (1998). *UN Good Offices*. Retrieved April 29, 2016, from University of Colorado Web Site: [www.colorado.edu/conflict/peace/treatment/ungoodof.htm](http://www.colorado.edu/conflict/peace/treatment/ungoodof.htm)

<sup>95</sup> Ibid.

the Egyptian president defied them as undemocratic. The signing of the agreement ended years of conflict between Egypt and Israel.<sup>96</sup>

The two parties agreed on a formal peace agreement which was to be signed by Israel and Egypt in three months' time, the highlights of the agreement were that both countries would initiate diplomatic relations, that Israel would withdraw from the Sinai Peninsula over a three years period, that representatives from Jordan and Palestine would be invited during the consultations to discuss the Palestinian issue. The agreement also indicated that there would be a five-year transitional period of Israeli withdrawal from the West Bank and Gaza. The transitional period would include the introduction of Palestinian self-rule and also required that the Israeli end their settlements in the West Bank.<sup>97</sup>

## **2.2 Conclusion**

Most of the conflicts emerge due to the struggle for authority, interests which can be diverse to the fight over rights. Classifying the approaches of preventive diplomacy as power-based, interest-based and rights-based helps in identifying the root causes of the conflict. The methodology therefore whether through mediation, negotiation, conciliation, and adjudicative dispute resolution mechanisms to the utilization of good offices is conflict specific and that the agreements reached is not a one shoe fits all scenario. These approaches are however very necessary in the application of PD.

It is therefore imperative to point out that the utilization of these approaches is paramount if international peace and security is to be maintained. There are also clear examples of the success of preventive diplomacy approaches in solving disputes or de-escalation of existing conflicts such as the intervention by NATO in the Kosovo conflict, the mediation process in Kenya leading to the formation of the coalition government following the disputed elections of 2007/2008, the use of good offices by the UNSG Kofi Annan to ensure an arms inspection happens in Iraq among others. It was also evident that indigenous communities also had institutions such as the Gacaca courts in Rwanda, the Ubuntu philosophy in Southern Africa

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<sup>96</sup>CNN. (2016, September 10th). *CNN Library: Camp David Accords Fast Facts*. Retrieved September 29th, 2016, from CNN Web Site: <http://edition.cnn.com/2013/08/23/world/meast/camp-david-accords-fast-facts/>

<sup>97</sup>CNN. (2016, September 10th). *CNN Library: Camp David Accords Fast Facts*. Retrieved September 29th, 2016, from CNN Web Site: <http://edition.cnn.com/2013/08/23/world/meast/camp-david-accords-fast-facts/>

and the intervention by elders of most African communities in to solve disputes and helping to bring harmony among community members.

## **CHAPTER THREE**

### **BENEFITS AND CHALLENGES OF PREVENTIVE DIPLOMACY**

#### **3.1 Introduction**

The United Nations, 1992 Agenda for Peace defines preventive diplomacy as the “action to prevent disputes from arising between parties, to prevent existing disputes from escalating into conflict and to limit the spread of the later when they occur”.<sup>98</sup> Preventive diplomacy has therefore gained popularity since it was first highlighted by Dag Hammarskjöld in 1960 as one of the elements of what is currently referred to as peace architecture.<sup>99</sup> Regional as well as national organizations are also in agreement that preventive action is of significance as opposed to reconstruction and post war peace building. Why then are all these players not investing significantly in this area in a world that has continued to witness protracted violence year in year out?

This chapter therefore tries to understand not only the benefits of preventive diplomacy but also will seek to explore the challenges faced by the United Nations and other actors in the implementation of preventive diplomacy so as to improve upon the concept and ultimately be able to meaningfully be able to prevent disputes from arising, prevent existing disputes from escalating into conflicts and limiting the spread of conflict when it occurs.

There is no doubt that an action that is geared towards prevention of conflict can be very useful in society. The world had faced two major wars, the First World War and the Second World War where there was a lot of devastation. Many lives were lost and property destroyed especially in Europe which was the epicenter of the conflict. This necessitated the formation of the International Bank for Reconstruction and Development at the 1944 Bretton Woods Conference to help in rebuilding Europe after the wars. There have also been many conflicts

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<sup>98</sup>Boutros-Ghali, B. (1992). *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-Keeping*. New York: United Nations.

<sup>99</sup>Zyck, S., & Muggah, R. (2012). Preventive Diplomacy and Conflict Prevention: Obstacles and Opportunities. *Stability*, 68-75.

which escalated in civil wars such as the 1994 Rwanda genocide, Kosovo conflict as well as the Sudan civil war which resulted in the separation of Southern Sudan from the Sudan.

The African continent has been hard hit by conflicts over a long period of time. Most of these conflicts are as a result of scarce resources, struggle for power among which resistance to colonialism has had a significant impact in the geo-politics in the African continent. The oppressive policies of divide and rule, redrawing of boundaries separating communities which have coexisted for many years as well as forcefully grabbing of land which belonged to the African communities have contributed to the destabilization of the continent. Subsequent governments which took over power from the colonial administrations have also not been pragmatic in correcting the injustices that the local communities suffered in the hands of the colonialist.

It is therefore in this environment that the United Nations under the leadership of Dag Hammarskjold sought to find out a more proactive way of solving conflicts and hence the birth of preventive diplomacy. Having therefore discussed what preventive diplomacy is and the various approaches used in the application of preventive diplomacy, it is imperative to evaluate the benefits of the application of preventive diplomacy and the possible challenges which may impede the successful application of this concept in resolving disputes and in conflict prevention and management.

### **3.2 Benefits of Preventive Diplomacy**

Opportunities for the application of preventive diplomacy are numerous and the resulting benefits are equally many. As Boutros-Ghali notes in his 1995 supplement to an Agenda for Peace, there has been a reduction in inter-state conflict as a result of preventive diplomacy and peacemaking but intra-state conflicts have continued to exist. He further presented a comparative analysis on the United Nations activities related to peace and security between 1988 and 1994 which showed that there was an increase in activities where the United Nations was actively involved in preventive diplomacy and peacemaking from 11 in 1988 to 28 in 1994. There was also a corresponding increase in the United Nations Security Council's resolutions over the same period of time.<sup>100</sup>

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<sup>100</sup>Boutros-Ghali, B. (1995). Supplement to An Agenda for Peace: Position Paper. New York: United Nations.



### 3.2.1 Preventive Diplomacy and the UN

The realization that preventive diplomacy is the right way to go necessitated the establishment of the department for political affairs charged with the responsibility of monitoring conflicts across the world. The department has been instrumental in spearheading the United Nations mediation processes and has established mediation support units which work closely with the department's regional divisions. Mancini notes that conflicts puts a lot of strain on war-torn communities and the international community in general as a result of this therefore preventive diplomacy has proved to be cost effective and less intrusive to invest in. The World Bank estimates the cost of one civil war to be the equivalent of thirty years of economic development.<sup>101</sup>

Prevention of disputes or de-escalation of conflict when it has already occurred has been proved to have more benefits both to the disputing parties as well as the United Nations and the international community. These benefits include socio-economic as well as political benefits. Prevention ensures that there is no destruction of property, infrastructure and loss of life, disruption of the social systems in society as well as a slump in the economy as conflict disrupts production and provision of goods and services. Preventive diplomacy approaches also ensure that there is minimal interruption to the existing political structures and in the event that the conflict has already ensured, it focuses on restoring things to normalcy through facilitating dialogue utilizing the tools of preventive diplomacy to avert a catastrophe and costly post-war reconstruction and peacebuilding.

Conflicts if not prevented even though they may have emanated from a local dispute have the potential of spreading to the rest of the country, region and ultimately the entire World. The application of preventive diplomacy has helped to ensure that disputes are prevented and existing conflicts are de-escalated to reduce to the intensity of the conflict, limit its geographical spread as well as reducing the loss of lives and property. The application of preventive diplomacy has prevented humanitarian catastrophes and with the help of various international treaties and conventions such as the 1951 Convention relating to the status of refugees and the Universal Declaration on Human Rights recognize the right of persons to seek asylum from persecution in other countries has enhanced the need for the international community to collaborate in ensuring international peace and security.

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<sup>101</sup>Mancini, F. (2011). *An Introduction to: Preventive Diplomacy: Regions in Focus*. New York: International Peace Institute.

The United Nations recorded success with the deployment of preventive force in Macedonia; this was the first UN peacekeeping operation to have a preventive mandate. The United Nations used mediation, negotiation, conciliation as well as deployment of troops to prevent conflict as well as protection of the territorial integrity of the Former Yugoslavia Republic of Macedonia. This was done through the approval of the United Nations Security Council resolutions which continued until 1999 when China vetoed the decision to extend the mandate of the force due to Macedonia's diplomatic recognition of Taiwan; however peace had already been restored.<sup>102</sup>

It is important to describe the situation in Macedonia in order to demonstrate the need for the United Nations intervention through the utilization of United Nations Preventive Deployment Force (UNPREDEP). Macedonia was part of the former republic of Yugoslavia which ultimately disintegrated forming other autonomous republics. As Ackermann notes, Macedonia was faced by internal and external challenges which would have a potential for igniting violence. The internal factors included the multi-ethnic composition of the country majority of who were agitating for cultural and religious rights and non-discrimination while the external ones included conflicts within the neighboring Countries which could spill over to Macedonia. The Country also did not have a viable military; the political system was in transition and also had unresolved border issues with the neighboring countries.<sup>103</sup>

### **3.2.2 Social-Economic Benefits**

Another case on the successful application of preventive diplomacy is the use of fact-finding missions in Estonia and Latvia in a bid to prevent conflicts. Estonia and Latvia were experiencing conflicts over citizenship. As Birckenbach notes,

“Europe feared an escalation of these conflicts to the gravity of the war experienced in Yugoslavia and therefore the Conference on Security and Cooperation in Europe (CSCE) mandated the Swedish Minister for Foreign Affairs Margaretha af Ugglas to pursue a strategy of preventive diplomacy to bring to an end these conflicts.”<sup>104</sup>

The cause of these conflicts was a result of exclusion of people majority of who were Russians who formerly were from other parts of the former Soviet Union from being citizens of these

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<sup>102</sup>United Nations. (1999). *United Nations Preventive Deployment Force*. New York: United Nations.

<sup>103</sup>Ackermann, A. (1999). Managing Conflicts Non-Violently Through Preventive Action: The Case of the Former Yugoslav Republic of Macedonia. *The Journal of Conflict Studies*, 19(1).

<sup>104</sup>Birckenbach, H.-M. (1997). The Role of Fact-Finding in Preventive Diplomacy. *The International Journal of Peace Studies*, 2(2), 25-45.

two countries. It was estimated that between 30-40% of the population was excluded from citizenship as a result of the mistrust of these people and involvement of Russia in asking these people to take up Russian citizenship resulted in them being viewed as a national security threat. Russia offered to give these people Russian citizenship and majority were therefore viewed as stateless persons. This exclusion as Birckenbach points out meant that they could not vote or be voted for and were also severely discriminated in political and societal life.<sup>105</sup> It is however important to point out that after numerous fact-finding missions and involvement of non-governmental organizations and international non-governmental organizations preventive diplomacy yielded results where these countries changed their legislation to allow for naturalization of these people and hence becoming citizens.

### **3.2.3 Synergy of Actors**

Another important factor in preventive diplomacy which is very useful in dispute prevention and de-escalation of conflicts when they ensue is the fact that many actors are able and willing to play a role in ending the conflicts. These range from Governments, inter-governmental organizations, international non-governmental organizations, non-governmental organizations as well as individuals.<sup>106</sup> This has come to be referred to as the application of track one and a half diplomacy as opposed to the utilization of only track one or track two diplomacy where governments or other players are the only ones involved in the process.

The engagement of multi-stakeholders in preventive diplomacy can be useful but only if well-coordinated. These stakeholders can do a variety of functions such as advocacy through mobilization of political will, analyzing and dissemination of information, encouraging dialogue amongst the disputing parties, mobilizing resources, as well as coordination of the conflict prevention processes.

### **3.2.4 Political Benefits**

Preventive diplomacy played an important role in averting escalation of the post-election conflict in Kenya. The situation would have deteriorated had it not been for the intervention of the United Nations and the African Union. The UN backed Kofi Annan former UN Secretary General, former Tanzanian president Benjamin Mkapa and Graca Machel were instrumental in bringing the disputing parties together to negotiate. This process culminated in signing of an

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<sup>105</sup> Ibid

<sup>106</sup>Zyck, S., & Muggah, R. (2012). Preventive Diplomacy and Conflict Prevention: Obstacles and Opportunities. Stability, 68-75.

agreement which formed the grand coalition government. Implementation of the raft of measures of that agreement has continued to shape the democratic space in Kenya.

Reforms in various public sectors such as the electoral reforms, police reforms etcetera and the formation of the Truth, Justice and Reconciliation Commission (TJRC) and the National Cohesion and Integration Commission (NCIC) was aimed at enhancing cohesion and co-existence amongst the various communities in the Country. The new Kenyan constitution also brought with it social justice, equality and equity in distribution of resources as well as the protection of people's rights.

In his report to the United Nations Security Council, UNSG Ban-Ki Moon highlighted the need for continued strengthening of preventive diplomacy. He sighted cases where the UN has deployed special envoys and partnered with other key stakeholders such as the African Union and regional bodies to defuse tension from erupting into full blown conflicts. A case in point is the appointment of former Nigerian President Obasanjo as special envoy for the great lakes due to the rising tension in the Democratic Republic of the Congo (DRC). The involvement of former President Obasanjo resulted in a meeting between President Paul Kagame of Rwanda and President Joseph Kabila of DRC.

It is important to point out that the reason DRC was accusing Rwanda is because of their stand that Rwanda was supporting the M23 rebels in DRC.<sup>107</sup> Carayannis points out that the DRC-Rwanda relationship is the critical factor to resolving the conflict, and that as long as efforts to build peace in the DRC neglect that relationship, these efforts will fail.<sup>108</sup> This therefore highlights the significance of the efforts by former President Obasanjo to bring together President Kagame and President Kabila to address the conflict in the region.

Through the application of preventive diplomacy, the United Nations Office for West Africa (UNOWA), the Economic Community of West African States (ECOWAS) and the African Union were instrumental in bringing stability to Guinea by facilitating a smooth transition of power from military rule to a constitutional order. Guinea had experienced violence starting with the massacre of people in a stadium who were protesting the alleged plans of Captain Moussa Dadis Camara, leader of the ruling junta, to run in the upcoming presidential elections.

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<sup>107</sup>United Nations News Centre. (2011). *News: Citing Successes, Ban Urges More Preventive Diplomacy to Defuse Conflicts*. Retrieved August 30th, 2016, from A United Nations Web Site: <http://www.un.org/apps/news/story.asp?NewsID=39494#.V9ZVIObXIVM>

<sup>108</sup>Carayannis, T. (July, 2009). *Background Paper: The Challenge of Building Sustainable Peace in the DRC*. Geneva: Centre for Humanitarian Dialogue.

Regional bodies and the international actors were quick to call for the stopping of human rights violation against the civilian population.<sup>109</sup>

Regional bodies and international actors played a significant role in supporting the unity government politically and economically until the presidential elections unfortunately conflict erupted again after the elections between the major ethnic communities Ban notes that the conflict had the potential of destabilizing neighboring countries.<sup>110</sup> Regional organization, the AU and ECOWAS and the international community called on the authorities to ensure protection of the civilian population. They also put pressure on the administration through condemnation, mediation, arms embargoes, sanctions and threats of coercive measures.<sup>111</sup> It is evident that well-coordinated approaches to dispute resolution through the application of preventive diplomacy tools can yield better results.

### **3.2.5 Preventive Diplomacy and Countering Violent Extremism**

The Australian Government defines violent extremism as the beliefs and actions of people who support or use violence to achieve ideological, religious or political goals. This includes terrorism and other forms of politically motivated and communal violence.<sup>112</sup> The world has continued to experience a surge in violent extremism and terrorism. The Global Centre for Cooperative Security point out the drivers and conditions that have contributed to this surge thus,

“Among the grievances that could create an enabling environment for extremist groups to exploit are sociopolitical inequality, prolonged violence and conflict, repression of civil liberties, and negative experiences with law enforcement and security officials. Consequently, the evolving area of policy and practice commonly referred to as “preventing and countering violent extremism” aims to foster preventive approaches and draws on a wide range of disciplines, including development, conflict prevention, peacebuilding, law enforcement, education, and culture and diplomacy to address the

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<sup>109</sup>International Coalition for the Responsibility to Protect. (2016). *Crises: Crisis in Guinea*. Retrieved September 28, 2016, from International Coalition for the Responsibility to Protect Web Site:

<http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-guinea>

<sup>110</sup>United Nations News Centre. (2011). *News: Citing Successes, Ban Urges More Preventive Diplomacy to Defuse Conflicts*. Retrieved August 30th, 2016, from A United Nations Web Site:

<http://www.un.org/apps/news/story.asp?NewsID=39494#.V9ZVIObXIVM>

<sup>111</sup>International Coalition for the Responsibility to Protect. (2016). *Crises: Crisis in Guinea*. Retrieved September 28, 2016, from International Coalition for the Responsibility to Protect Web Site:

<http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-guinea>

<sup>112</sup>Australian Government, Living Safe Together. (2016). *About Us: What is Violent Extremism*. Retrieved September 29, 2016, from Livingsafetogether Web Site: <https://www.livingsafetogether.gov.au/aboutus/pages/home.aspx>

spectrum of conditions that can contribute to violent radicalization and mobilization to violence”.<sup>113</sup>

This study draws on the policy and practice of preventing and countering violent extremism through the application of preventive approaches. It is therefore important to point out that there is an opportunity for the application of preventive diplomacy as opposed to military intervention in the fight against terrorism and violent extremism. This is particularly true in countries such as Somalia, Iraq, Libya, Yemen and Syria. This study does not in any way indicate that military interventions should not be utilized to stop terrorist from advancing their agenda, but the key point in this discussion is that the international community has a role to play through the utilization of preventive diplomacy tools to bring stability to war torn countries in order to prevent these countries from becoming breeding grounds for terrorism and violent radicalization.

Ibrahim notes that ISIS and similar terrorist organizations such as al-Qaida and Boko Haram are thriving because they are taking advantage of the civil war in Syria, and the weak government structures in Afghanistan, Iraq, Libya, Nigeria, Mali, Somalia and Yemen.<sup>114</sup> It is important to point out that the problem of terrorism will continue to exist so long as the challenge of failed and weak states is not addressed. Somalia for example has been a failed state for over two decades now and this has created fertile ground for extremist groups to recruit, train and execute their plans unabated. This has greatly affected the neighboring countries such as Kenya, Uganda, Tanzania and Ethiopia. Kenya has been hard hit over the years necessitating the development of counter-terrorism and countering violent extremism strategies and coordination of initiatives geared towards ensuring national security.

The international community therefore needs to take a leading role in supporting failed states to have functional governments and strengthening the capacity of weak states to be able to counter the challenges posed by extremist groups. The utilization of preventive diplomacy can be a very useful tool in this endeavor and especially more in preventing disputes and escalation of disputes in conflicts whenever countries are faced with challenges that would threaten peace. Effective use of preventive diplomacy approaches will therefore limit the space for terrorist

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<sup>113</sup>Global Centre for Cooperative Security. (2016). *Preventing and Countering Violent Extremism in South and Central Asia: The Role of Civil Society*. Retrieved September 29, 2016, from Global Centre for Cooperative Security Web Site: <http://www.state.gov/documents/organization/245885.pdf>

<sup>114</sup>Kalin, I. (2015, February 7). *Daily Sabah Columns: War, Failed States and ISIS Terrorism*. Retrieved September 29, 2016, from Daily Sabah Web Site: <http://www.dailysabah.com/columns/ibrahim-kalin/2015/02/07/war-failed-states-and-isis-terrorism>

groups to operate. A multi-faceted approach such as the one developed by the National Counter-Terrorism Centre of Kenya (NCTC) in their National Counter Radicalization Strategy which has seven pillars; media strategy; psycho-social strategy; faith based strategy; capacity building strategy; political strategy; education and security strategies can yield results in the fight against radicalization and violent extremism.<sup>115</sup>

It is therefore necessary that the UN encourages member states to appreciate the role that preventive diplomacy plays and cooperate should need arise for such an intervention. This can be achieved through emphasis on application of article 33 of the Charter of the United Nations which highlights the various mechanisms for pacific settlement of disputes as well as the appreciation and application of indigenous communities' knowledge and involvement of indigenous communities in conflict prevention without resorting to violence as wars only makes a bad situation worse.

### **3.3 Challenges of Preventive Diplomacy**

It is evident that preventive diplomacy and any preventive action is not only necessary but should be at the core of the United Nations and the international community in solving disputes and conflicts before and when they arise. With this understanding, it is important to point out that in as much as the majority of the stakeholders agree that PD is the right way to go, there are various challenges that have and continue to impede these initiatives. The discussion that follows will highlight the various challenges in the implementation of preventive diplomacy approaches.

#### **3.3.1 Financial Challenges**

The UNSG Ban Ki-Moon notes that there is a real limitation in raising enough resources. These resources include funds, troops, political capital as well as understaffing at the department of political affairs to adequately deal with the consequences of armed conflict. He further points out that there is urgent need to change the approach, broaden the set of tools, and relieve the pressure currently placed on the United Nation's emergency response. Prioritizing conflict prevention is by far the most pragmatic and cost-effective option.<sup>116</sup>

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<sup>115</sup>Government of Kenya and United Nations Development Program. (2015, January). *Documents: Strengthen Community's Capacity Against Radicalization and Violent Extremism in Kenya*. Retrieved September 29, 2016, from United Nations Development Program Web Site: [https://info.undp.org/docs/pdc/Documents/KEN/\(Kenya%20rev%20270115\)%20Kenya%20Counter%20Terrorism%20project%20Document%20FINAL.pdf](https://info.undp.org/docs/pdc/Documents/KEN/(Kenya%20rev%20270115)%20Kenya%20Counter%20Terrorism%20project%20Document%20FINAL.pdf)

<sup>116</sup>United Nations Department of Political Affairs. (2016). *Multi-Year Appeal 2016-2017*. New York: United Nations.

The United Nations is much underfunded and this continues to be a big challenge for the effective response of the United Nations in times of crises and situations requiring immediate emergency interventions. The chronic lack of funding by the UN impedes its functioning in the long term and in the immediate response to crises. Early intervention is very important for the success of preventive diplomacy and sometimes due to inadequate funding, the United Nations is forced to go into areas where war has already broken out to try and normalize the situation and try to bring about de-escalation of the conflict.<sup>117</sup> This therefore means that even though early warnings may have indicated signs of an impending dispute, conflicts happening elsewhere may divert the attention of the UN and hence a cycle of conflicts continue around the World.

### **3.3.2 Limitations to Interventions**

Majority of the United Nations member states have a fear of internationalizing their disputes and/or conflicts and often times they do not agree that they have a problem that requires urgent attention and ultimately prevent a conflict from ensuing. Any attempt at intervening is construed to mean a breach of the UN Charter regarding intervention in matters of domestic jurisdiction of countries.

When this article is invoked, early intervention by the United Nations is slowed at times leading to catastrophic results. As Opiyo notes, early intervention is impeded as nations refuse help from the United Nations fearing large contingents of the blue helmet peacekeepers in their countries.<sup>118</sup> In theory, all the nations agree that preventive diplomacy is the best approach until a conflict ensues at home then a realization that intervention by third parties is not as easy to welcome without the good will and acceptance of the host nation.

A clear example is the recent unrest in Burundi where the president sought a third term in office sparking widespread violence in the country. The African Union made a decision to send peacekeeping forces to Burundi to prevent atrocities against the civilian population but Burundi refused that intervention to allow peacekeeping forces in the country citing meddling in the internal matters of their country contrary to provisions of the UN Charter which prohibits member states from using threats or even using force violating the integrity of the territory of

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<sup>117</sup>Opiyo, O. J. (2012, April 1st). Issues: The Challenges of Preventive Diplomacy. Retrieved July 11th , 2016, from An African Centre for the Constructive Resolution of Disputes Web Site: <http://www.accord.org.za/ajcr-issues/%EF%BF%BCthe-challenges-of-preventive-diplomacy/>

<sup>118</sup>Opiyo, O. J. (2012, April 1st). Issues: The Challenges of Preventive Diplomacy. Retrieved July 11th , 2016, from An African Centre for the Constructive Resolution of Disputes Web Site: <http://www.accord.org.za/ajcr-issues/%EF%BF%BCthe-challenges-of-preventive-diplomacy/>



another member state or even the political independence of that that state or in any other way which is against the principles of the United Nations and the Constitutive Act of the African Union which prohibits the use of force or threat to use force on a member state.<sup>119</sup>

It is important to point out that the United Nations does not have a peacekeeping forces, it solely relies on member states to provide the peacekeeping forces. Requests to member countries to mobilize peacekeeping forces takes time and often times there are challenges with logistical arrangements as well as equipment required for the operation especially in instances where the conflict has already erupted. This therefore poses a challenge resulting in delays and effectiveness in the peacekeeping operation. A delay in responding to conflict means more lives lost, destruction to property as well as general disruption to economic, political as well as social activities within the society.

### **3.3.3 Lack of Capacity**

The process of preventive diplomacy entails rigorous mediation as well as utilization of other pacific settlement of disputes resolution mechanisms. The United Nations Department of Political Affairs in their multi-year appeal report acknowledge that in addition to understaffing in the department, there is lack of capacity and experience to carry out mediation and other preventive diplomacy approaches and this greatly affects interventions in dispute and conflict prevention.<sup>120</sup> It is as a realization of this skills and knowledge gap that the United Nations Institute for Training and Research embarked on an excise of training future negotiators and mediators to develop and nurture the necessary talent and knowledge in the diplomats of member states and staff of the UN departments and agencies to keep up with international best practices and to equip them with the latest conflict resolution skills.<sup>121</sup>

### **3.3.4 Lack of Coordination**

Since preventive diplomacy has opened an opportunity for numerous stakeholders to engage in dispute and conflict prevention, there has also arisen a challenge in coordinating the efforts of all these stakeholders leading to duplication of effort and even creation of confusion amongst the disputing parties as the parties involved in helping the disputing parties come to an

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<sup>119</sup>Organization of African Unity. (2000, July 11). Files:Constitutive Act of the African Union. Retrieved July 13, 2016, from An African Union Commission Web Site: [http://www.au.int/en/sites/default/files/ConstitutiveAct\\_EN.pdf](http://www.au.int/en/sites/default/files/ConstitutiveAct_EN.pdf)

<sup>120</sup>United Nations Department of Political Affairs. (2016). Multi-Year Appeal 2016-2017. New York: United Nations.

<sup>121</sup>United Nations Institute for Training and Research. (2016). *Home: Training Future Negotiators and Mediators*. Retrieved September 27th, 2016, from United Nations Institute for Training and Research Web Site: <https://www.unitar.org/training-future-negotiators-and-mediators>

agreement have different objects and capacities and this has a bearing in the success of the process and at times leads to preventive action fatigue.<sup>122</sup>

Kugel notes that another challenge in the application of preventive diplomacy is the divisiveness within the United Nations Security Council and disagreements between them on when and how preventive measures should be put in practice. The council has in numerous occasions failed to take timely and sufficient action to prevent the outbreak or escalation of crises Kugel continues to point out.<sup>123</sup> This has been mainly as a result of interests and alliances and through the veto power decisions of the council have been slowed or even paralyzed resulting in the slow response to conflicts resolution by the United Nations. An example is the US use of veto power over any decision against the state of Israel over the protracted conflict between Israel and Palestine.

### **3.3.5 Failure of Intelligence and Use of Intelligence**

In a book by the Carnegie Commission on Preventing Deadly Conflicts, they present a case in which for example the use of early warning which is a tool of preventive diplomacy faces numerous challenges as there are two critical aspects to the success of early warning mechanisms. These challenges include the failure of intelligence and the failure to use intelligence. The failure of intelligence emanates from the quantity and quality of intelligence gathered while the inaction is as a result of what George and Holl points out as quoted in the same book as the warning-response gap which is the time taken for key decisions to be made.<sup>124</sup>

The Gulf war is an example of inaction by the international community as a result of inaccurate reading of the evidence presented by the early warning mechanisms. As George and Holl notes,

The Iraqi invasion of Kuwait on 2<sup>nd</sup> August 1990 is a recent example of the challenge of accurately reading and interpreting an enemy's signal. In the middle of July of 1990, there was already intelligence that Iraq was marshaling their troops and military hardware in readiness to attack Kuwait. US intelligence had picked the buildup of some thirty - five thousand Iraqi troops and three hundred tanks on Kuwait's border. Iraq was also pressing charges against Kuwait sighting theft of its oil resources therefore requiring Kuwait to pay \$2.4 billion in

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<sup>122</sup>Zyck, S., & Muggah, R. (2012). Preventive Diplomacy and Conflict Prevention: Obstacles and Opportunities. *Stability*, 68-75.

<sup>123</sup>Kugel, A. (2015). *Magazine: Alischa Kugel on the United Nations and Preventive Diplomacy*. Retrieved August 30, 2016, from United Nations Association-UK Web Site: <https://www.una.org.uk/magazine/1-2015/alischa-kugel-united-nations-and-preventive-diplomacy>

<sup>124</sup>Carnegie Commission on Preventing Deadly Conflicts. (2000). *Opportunities Missed, Opportunities Seized: Preventive Diplomacy in the Post-Cold War World*. (B. W. Jentleson, Ed.) Maryland: Rowman and Littlefield.

compensation. The other complaint was that Kuwait was breaking the Organization of Petroleum Exporting Countries (OPEC) rules regarding production quotas on oil. Iraq therefore demanded for compensation through an increase of oil prices as well as suspension of debts owed by Iraq to other Arab Countries as a result of the war between Iraq and Iran.<sup>125</sup>

The Iraqis further gave a warning that if their demands were not met; they would invade Kuwait. George and Holl further points out that when the Iraq administration realized that the US had no intention of getting involved in an Arab-Arab conflict as they did not have defense agreements with Kuwait if threatened by Iraq, the Iraqi administration assumed that to mean that there would be no resistance from the US should they make their threat real by attacking Kuwait.

The International community and even Kuwait thought that Iraq was bluffing and was only showing their military might by bringing their forces and ammunition to the border of Kuwait until the invasion happened.<sup>126</sup>The inaction by the US and the international community in this conflict resulted in the gulf war which continued for seven months from 2<sup>nd</sup> August, 1990 to 27<sup>th</sup> February, 1991. Thousands of people lost their lives, there was massive destruction of property, oil fires, oil spill and the bombs caused massive environmental damage as well as economic slump of the Kuwait economy.

### **3.4 Conclusion**

The United Nations, Regional and sub-regional organizations and non-state actors are in agreement that dispute and conflicts pose a major impediment to the socio-economic development of the world today. Preventive action such as the application of preventive diplomacy in dispute resolution and conflict de-escalation is not only the right way to go but also has proved to be cost effective and minimizes losses to lives and property and very expensive post-war reconstruction. The benefits of preventive diplomacy therefore ranges from benefits to the United Nations in so far as the organization's efforts towards maintaining international peace and security, social-economic benefits to the international community, political benefits in helping to solve political problems and leadership transitions to benefiting the fight against violent extremism and terrorism.

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<sup>125</sup> Carnegie Commission on Preventing Deadly Conflicts. (2000). *Opportunities Missed, Opportunities Seized: Preventive Diplomacy in the Post-Cold War World*. (B. W. Jentleson, Ed.) Maryland: Rowman and Littlefield

<sup>126</sup>Ibid

With the opportunities presented to the United Nations and the international community in applying preventive diplomacy, numerous challenges need to be addressed. These include provision of a sufficient budget to the United Nations for preventive action, building the capacity and experience of staff at the department of political affairs of the United Nations and the mediators to be able to competently apply preventive diplomacy approaches, there is also need for concerted efforts in coordinating the activities of all the players involved in preventive diplomacy in order to eliminate the threat of preventive action fatigue and duplication of efforts. It is also important that the international community builds a robust early warning system where credible intelligence is gathered on the situations that threaten global harmony and security and also taking action whenever intelligence is provided in order to prevent disputes from escalation into conflicts.

## CHAPTER FOUR

### CRITICAL REVIEW, DATA ANALYSIS, PRESENTATION AND INTERPRETATION

#### 4.1 Introduction

The concept of preventive diplomacy as envisioned by Dag Hammarskjold was aimed at preventing new disputes and the escalation of existing tensions into violence as well as limiting the spread of ongoing conflicts. He viewed this as a more proactive, cost effective and better approach towards bringing about international peace and security which is a key mandate of the United Nations. Hammarskjold reached this conclusion as a realization that conflict prevention was more reactive within the United Nations system and especially after the world had experienced two major world wars.

This study guided by Johan Galtung's theory of conflict sought to assess the application of preventive diplomacy in indigenous conflict resolution specifically among the Maasai community in Kenya. The themes of the study focused on the approaches of preventive diplomacy as highlighted in chapter two of this study as well as the benefits and challenges of the application of preventive diplomacy discussed in chapter three.

This chapter therefore analyses the data collected from the field and provides a critical review of the study. This chapter also explores the nexus between the theoretical basis of this study and the application of preventive diplomacy among the Maasai.

#### 4.2 Historical Perspective

The Maasai were one united community called Maa; there were no clans at the time until around the 1800s during the *Ipeles* age group. It is important to point out that clans among the Maasai came to be as a result of where people lived or phenomena in that area. They came to be associated with that and which continued to finally becoming clans.<sup>127</sup> The History of the Maasai is very deep and has a lot of similarities with the Jewish culture as is enumerated in the Old Testament but this study only takes into consideration the historical perspective from when conflict begun to emerge among the Maasai in order to better understand the themes outlined in this study.

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<sup>127</sup> Ole Makele, M. (2016, August 3rd). Community Elder. (G. Maripet, Interviewer)

### 4.3 Causes of Conflict among the Maasai

B.K Ole Kantai in his forward to a book called the Maasai by S.S. Ole Sankan; he notes that as well as fighting and conquering other tribes, the Maasai fought intra-clan wars some of which resulted in the practical annihilation and the absorption of the Maasai sections. Two of them were devastated in the 1840s and around 1890. These two clans were *Iloogol-Ala* and *Ilaikipiak*.<sup>128</sup>

As the study found out, the fiercest of these intra-clan wars was the one between the *Ilaikipiak* and a combined force of the other clans of the Maasai. The cause of this war was the refusal by the *Ilaikipiak* to share cows with the other clans who participated in a raid to the *Ilwausinkishu*.<sup>129</sup> This resulted in the annihilation of the *Ilaikipiak* clan and those who were left were assimilated into mainly the *Purko* clan of the Maasai which is currently the biggest clan among the Maasai.

All the elders interviewed were unanimous in their opinion as to what caused the inter-clan wars. The common denominator was the cows. In the current terminology, this can be viewed as a resource based conflict. This was due to the fact that raids were organized to attack other clans to take their cows and sharing of the loot at times also resulted in more wars due to other clans feeling that there was no fairness and equitable sharing of the cows after the raid.

It was also pointed out that another cause of conflict was the medicine men or witch doctors referred to in Maasai as *Iloibono*. These people were involved in some form of business and they would encourage the worriers to go and conduct raids by telling them that they would give them protection in form of a charm and that they would be victorious in battle in return for a share of several cows after the raid, and so this practice continued and whenever the worriers were successful they would go back to the witch doctor to take him the cows, this also emboldened them to conduct other raids because of the belief that the witch doctor will continue to “cover” them with his charm and hence success.

Another perspective raised as having contributed to intra-clan conflict among the Maasai is the arrival of the colonialist. During the coming of the colonialists, the Maasai were a formidable force who had the power to organize devastating wars within themselves and to other communities in Kenya and Tanzania then Tanganyika. When the colonialists arrived, they decided to initiate conflict among the Maasai in order to learn their war tactics and by the late

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<sup>128</sup>Ole Kantai, B. (1971). Foreward. In S. Ole Sankan, *The Maasai* (pp. vii-xxix). Nairobi: Kenya Literature Bureau.

<sup>129</sup>Ole Makele, M. (2016, August 3rd). Community Elder. (G. Maripet, Interviewer

1800s they had become successful in weakening the Maasai having learnt their tactics in addition to that they fragmented the Maasai through a process of divide and rule which resulted in the current demarcations of the Maasai community.<sup>130</sup> They also were successful in stopping the raids and this was reduced to groups or individual criminals stealing cows from the community.

#### **4.4 Approaches of Preventive Diplomacy**

There is consensus world over that preventive diplomacy is a better option of preventing conflict as it is not only a proactive approach but also a cost effective way of preventing disputes and conflict when it ensues. This is evident by the significant increase in the number of political missions and regional offices that the United Nations has initiated to implement preventive diplomacy. The United Nations Secretary General underscored a decision taken by the Security Council in its resolution 1325 of 2000 which significantly called for greater participation of women in conflict prevention and the recognition of the importance of indigenous conflict resolution mechanisms.<sup>131</sup>

#### **4.5 Contribution of African Indigenous Institutions to Preventive Diplomacy**

The African continent has witnessed catastrophic conflicts over a long period of time. This can be attributed to a number of factors ranging from fight over resources, power, disenfranchisement as well as colonialism. The later has had adverse effects on the continent to date. In addition to the application of negative policies on the African population, it also eroded the traditional value system among the African population. The application of customary law was and continues to a lesser extent be used effectively to resolve disputes and conflict between different opposing sides. It is therefore important to look at some of the indigenous institutions and their contribution to preventive diplomacy.

##### **4.5.1 Ubuntu**

The concept of Ubuntu pre-dates colonial times and has proved to be an effective conflict prevention and management approach in many African societies. The chair of the South African Truth and reconciliation commission the Archbishop Desmond Tutu employed values of Ubuntu as he believed that South African cannot move forward as an independent nation without forgiveness following the end of apartheid. As Murithi outlines, Ubuntu highlights the

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<sup>130</sup>Ole Makele, M. (2016, August 3rd). Community Elder. (G. Maripet, Interviewer

<sup>131</sup>Ki-Moon, B. (2011). Preventive Diplomacy: Delivering Results. New York: United Nations.

essential unity of humanity and emphasizes the importance of constantly working together to address challenges and conflicts within the society.<sup>132</sup>

He further notes that Ubuntu societies place a high value on communal life, and maintaining positive relations within the society is a collective task in which everyone is involved. This therefore ensured that everyone in society has a role to play to ensure harmony is enhanced in society. A brief description of this philosophy is that 'I am because we are' which therefore means a wrong done is viewed as being done to the whole society and hence the responsibility of resolving the wrong/dispute is on the entire community.

The process clearly embraced the spirit of preventive diplomacy as resolving individual and communal conflicts prevented an escalation of conflict nationally and hence no need for intervention by the international community to resolve a crisis which would threaten international peace and security. This philosophy has had positive impact in the reconciliation of South Africans post-apartheid. In addition to the efforts of the truth and reconciliation commission headed by Archbishop Desmond Tutu, President Nelson Mandela emphasized the need for cohesion and co-existence of the people of South Africa for the realization of nation building and prosperity of South Africa.

The global community therefore can draw lessons from this indigenous approach to conflict prevention and resolution. I agree with Murithi that public participation, the unity of supporting victims and calling on perpetrators to show remorse is an important step in the peacemaking process. It is also equally important to acknowledge guilt and granting of forgiveness as a way to achieve reconciliation and finally as Murithi puts it the importance of referring constantly to the essential unity and interdependence of humanity and living out the principles which this unity suggests, namely; empathy for others, the sharing of common resources, and working with a spirit of cooperation in efforts to resolve common problems.<sup>133</sup>

#### **4.5.2 Maasai Approaches to Preventive Diplomacy**

It is against this backdrop that this study sought to find out the approaches of preventive diplomacy that the Maasai as an indigenous community in Kenya utilize in dispute/conflict resolution. The respondents indicated that they are aware of the intra-clan conflicts among the

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<sup>132</sup>Murithi, T. (2006, June). Practical Peacemaking Wisdom from Africa: Reflections on Ubuntu. *The Journal of Pan African Studies*, 1(4), 25-34.

<sup>133</sup>Murithi, T. (2006, June). Practical Peacemaking Wisdom from Africa: Reflections on Ubuntu. *The Journal of Pan African Studies*, 1(4), 25-34



Maasai and also pointed out the various causes of the conflicts as highlighted above. Asked to list the various approaches of preventive diplomacy used by the Maasai, the elders pointed out that the most common were mediation, negotiation and a combination of good offices and mediation.

The most common of the approaches was mediation, the mediators were given an interesting name by the Maasai called *Naibor-alem loosely* translated to mean white knife meaning the peacemakers. These mediators were from the clans with certain relationships with the disputing parties but who the disputing parties respect and know they will seek a lasting solution for the parties; this would be similar to the insider partial mediator in the current practice of mediation that has an interest in a positive outcome of the mediation process. The overall mediators in the Maasai community are the elders but the youth and women would also be used as mediators to solve disputes among their peers but in the event that they will be unable to solve the dispute, the elders will then be called in to mediate and/or adjudicate to ensure a solution to the dispute is reached.

An interesting approach which is slightly different in methodology to the various approaches of preventive diplomacy discussed in chapter two of this study is the one combining good offices mediation and adjudicative dispute resolution. The chief (*Olaiguanani*) is a much respected position among the Maasai. He thus uses his good offices to bring the disputing parties together but in addition he invites independent non-partisan elders only to listen to the discussions and then calls all the parties and the elders to give their view of the dispute where the chief then makes a decision which is binding to the disputing parties.

#### **4.6 Benefits and Challenges of Preventive Diplomacy**

It was evident from the study that preventive diplomacy is not only a better approach to dispute/conflict resolution but there are tangible benefits as a result of its application. From the discussion in chapter three, it was clear that preventive diplomacy has an economic benefit in that it minimizes loss of life and destruction of property, disruption of the social systems in society as well as a slump in the economy as conflict disrupts production and provision of goods and services.

From the data collected, it was evident that the Maasai appreciate that it is important to engage in preventive diplomacy as the approaches have been successful in preventing new conflicts and/or escalation of existing conflicts. They cited that preventive diplomacy approaches have been successful in prevention disputes among family members, clans as well as disputes

between the Maasai and other communities. The approach would limit an endless stealing of cows from one clan to the other making the not so powerful clans to remain poor and also robbing them of their pride as cows in the Maasai community are viewed as a symbol of pride and success which would give an individual and family certain status within the community.

One major challenge highlighted by the elders was that double standards played a role in limiting the successful implementation of preventive diplomacy approaches among the Maasai as the parents of the warriors would talk their children out of participating in the raids but when they do so, then they would be proud of them and welcomed the cows brought home after the raid. It was also evident that they would only discourage them from conducting intra-clan raids but if the raid was to another community, they would not care about it. This therefore proved to be merely a public relations exercise as the parents even though commanded a lot of respect from their children did not necessary mean what they were saying and hence the continuation of raids and also conflicts with other neighboring communities.

#### **4.7 The Nexus between the Theoretical Basis and the Application of PD among the Maasai**

Johan Galtung's theory of conflict formed the basis for this study. In his theory Galtung highlights three very important components that must be present for a conflict to ensure. He came up with a triangle consisting of contradiction, behavior and attitude. This theory explains contradiction to mean any situation that is the basis of the conflict. Attitudes are the perceptions and misperceptions of the parties and this includes such factors as fear, anger, mistrust, bitterness and hatred. Behavior on the other hand involves cooperation and coercion.<sup>134</sup>

According to Galtung, direct violence is ended through changing conflict behavior while structural violence is ended through removal of structural contradictions and injustices and cultural violence is prevented through changing of attitudes.<sup>135</sup> In the case of the Maasai, a combination of factors helped to end or limit intra-clan conflict. These factors include education, religion and the rule of law. The uptake of education and religion albeit slow as it was viewed as a colonial way of influencing the community transformed the way of life of the Maasai as the youth who would be involved in raids were going to school as well as embracing religion mainly Christianity which encourages peaceful co-existence among people as well as the idea that stealing other people's property is not only wrong but it is sinful.

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<sup>134</sup>Ramsbotham, O., Miall, H., & Woodhouse, T. (2011). *Contemporary Conflict Resolution: Concepts and Definitions* (Vol. 3rd Edition). Cambridge: Polity Press.

<sup>135</sup> Ibid

The colonialists introduced the rule of law where everyone was required to comply with; this meant that raids and stealing other people's cows became an offence punishable by law. Anyone who was caught having organized raids or stolen other people's cows was arrested and prosecuted. This was a new thing among community members and it helped to deter them from further organizing raids. There was also the aspect of rights as outlined in the penal code; these included the right to life and the right to own property among others. These factors altered the arrangement of the triangle by changing attitudes and behavior and ultimately not only reducing or stopping intra-clan conflict but also changed the way of life of the Maasai community.

#### **4.8 Data Analysis Presentation and Interpretation**

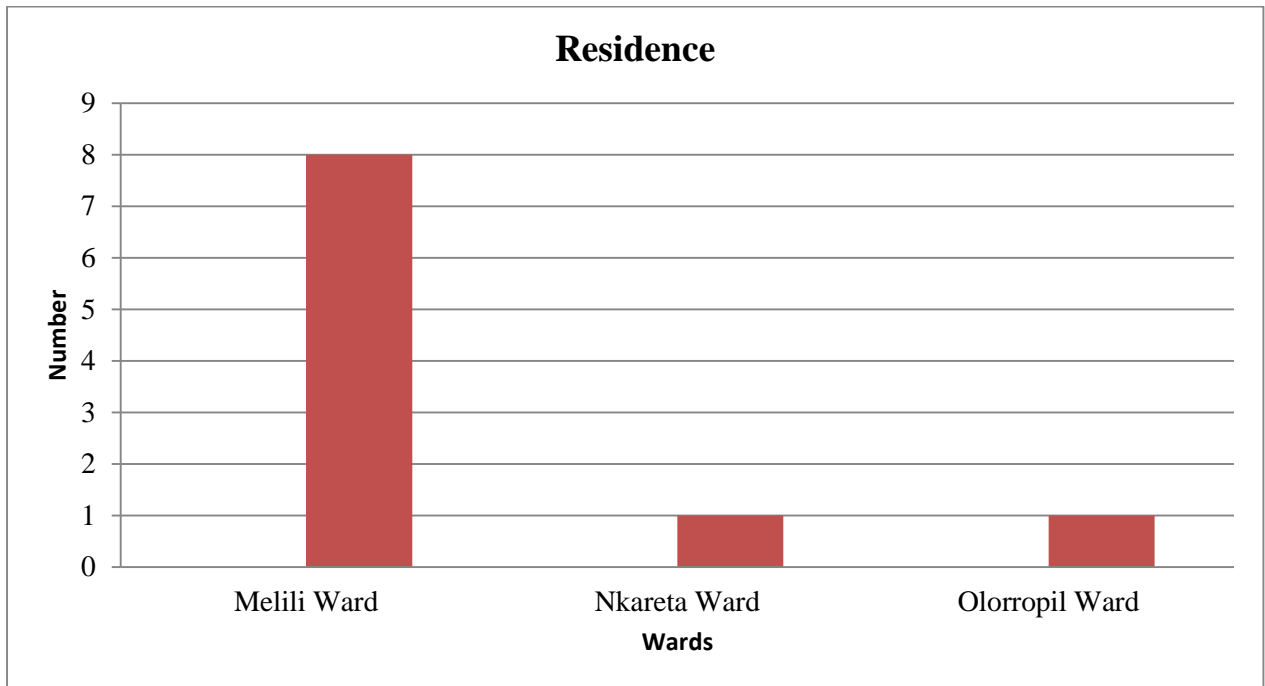
The study benefited through the application of mixed method research design which takes into account qualitative and quantitative designs. The data presentation was done using pie charts and graphs and tables as appropriate. An interview guide was used to collect the data owing to the fact that the target respondents had not attended formal education but had valuable information regarding the history of the Maasai community.

##### **4.8.1 Bio Data**

1. Asked where they reside, (80% n=8) out of the ten elders sampled indicated they reside in Melili ward and 10% n=1) from Nkareta ward and the other (10% n=1) was from Olorropil ward as indicated by the graph below

#### 4.8.1.1 Residence

Figure 2: Residence

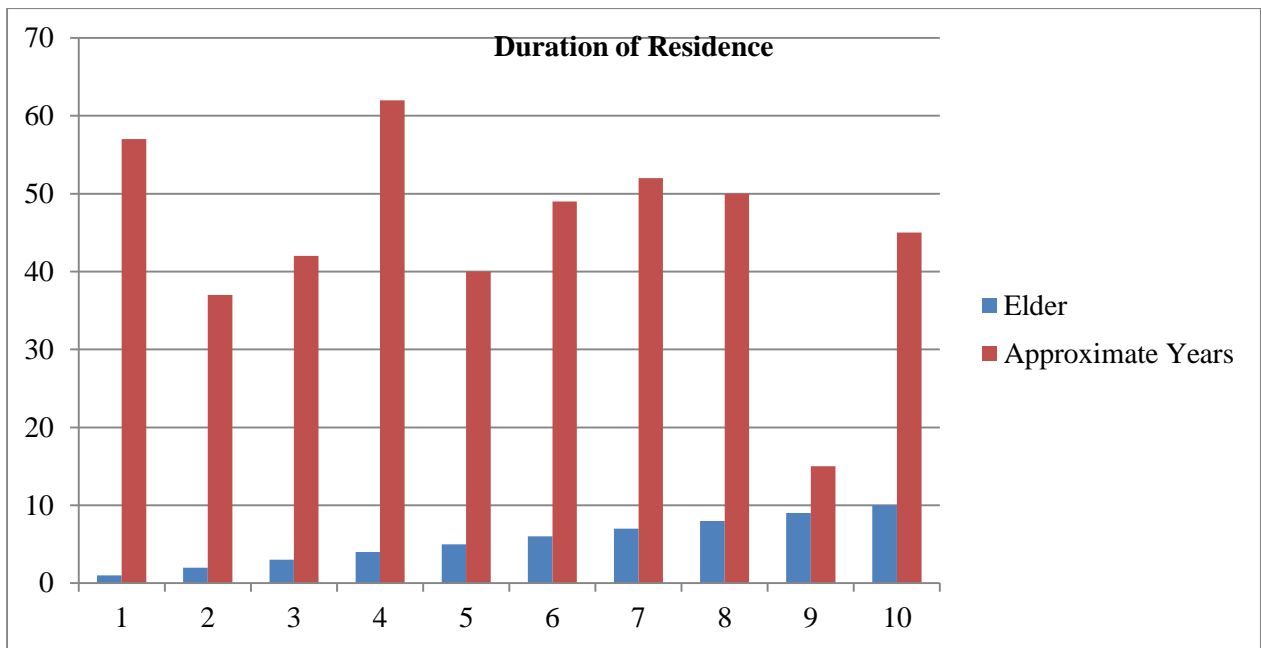


Source: Researcher, 2016

#### 4.8.1.2 Duration of Residence

2. When asked about the duration of time that they have lived in that area, they indicated approximate years based on certain events that occurred during their time. The longest stay was 62 years.

Figure 3: Duration of Residence

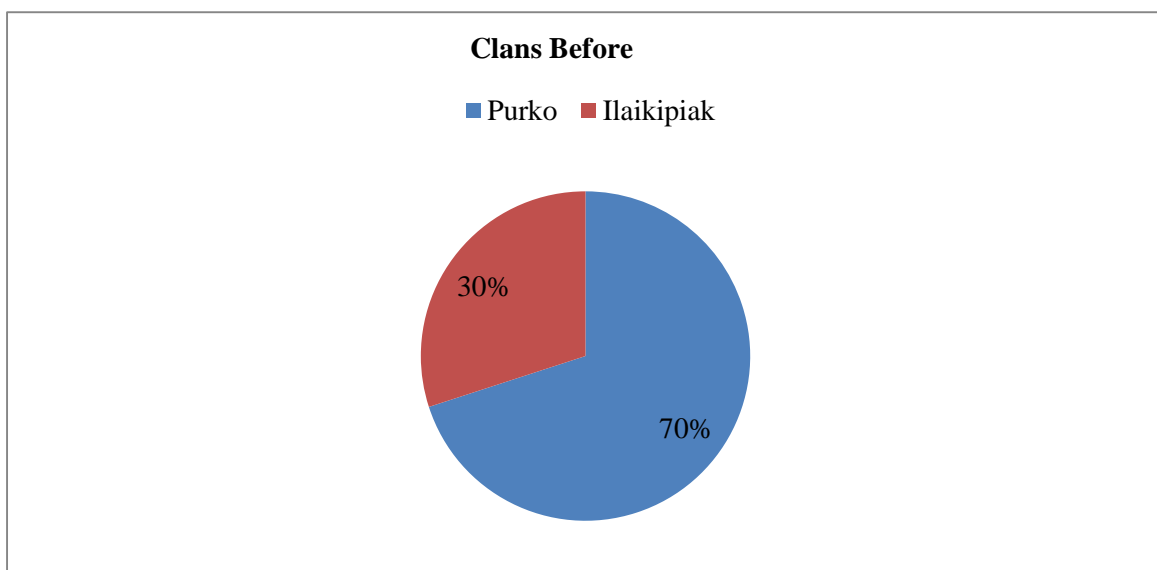


Source: Research, 2016

#### 4.8.1.3 Clans before Assimilation

- Most (70%; n=7) of the elders indicated that they have always been from the Purko clan minority (30%; n=3) indicated that they were initially from the Ilaikiapiak clan before being assimilated into the Purko clan as a result of conflict.

Figure 4: Clans before Assimilation



Source: Researcher, 2016

## 4.8.2 Approaches to Preventive Diplomacy

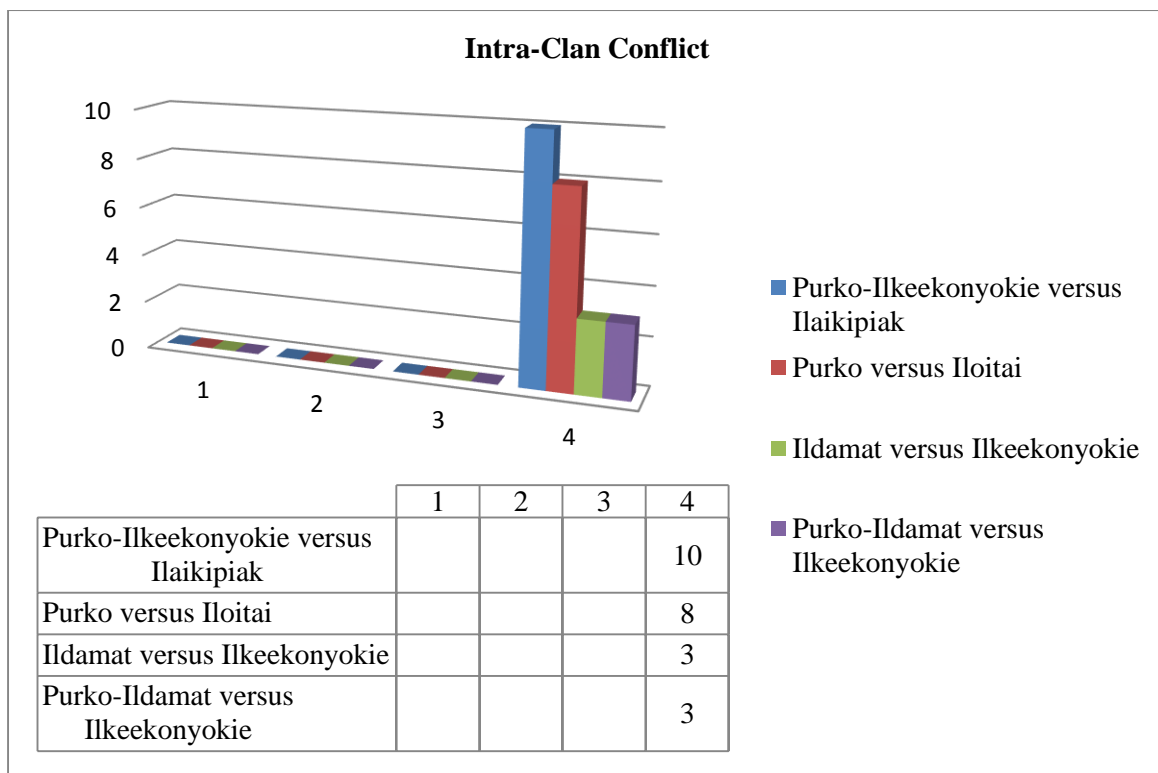
### 4.8.2.1 Knowledge of Existence of Intra-Clan Conflict

4. Asked if they were aware of any intra-clan conflict among the Maasai, they were unanimous that they were aware of such conflict (100% n=10).

### 4.8.2.2 Intra-Clan Conflict

5. Asked which ones they were aware of, all indicated (100% n=10) the one between the Purko-Ilkeekonyokie against the Ilaikipiak, (80% n=8) also added the conflict between the Purko and the Iloitai, 30% n=3)added the one between Ildamat against the Ilkeekonyokie and (30% n=3) more the Purko-Ildamat against Ilkeekonyokie

Figure 5: Intra-Clan Conflict



Source: Researcher, 2016

### 4.8.2.3 Fiercest Battle

6. There was agreement that the most fiercest of all the battles was the one between the Purko-Ilkeekonyokie versus Ilaikipiak (100% n=10)

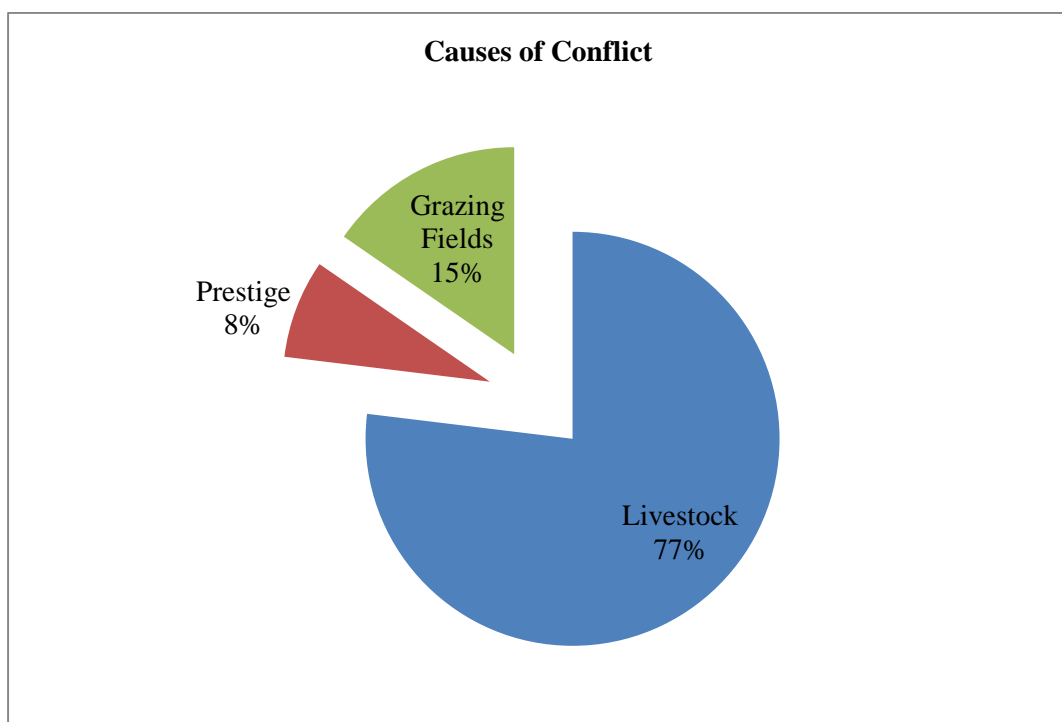
### 4.8.2.3 Start of the Conflict

7. Regarding the question of when the conflict started, the elders indicated that the conflict happened before the arrival of the colonialist this is probably around mid-1800s (80% n=8) and (20% n=2) indicated that they could remember the time.

#### 4.8.2.4 Cause of the Conflict

8. The main cause of the conflict was livestock (77% n=10). The raids were conducted in order to acquire more livestock. The elders also added that conflicts over grazing fields (15% n=2) and prestige associated with successful raids took (8% n=1) as causes of conflicts.

Figure 6: Causes of Conflict

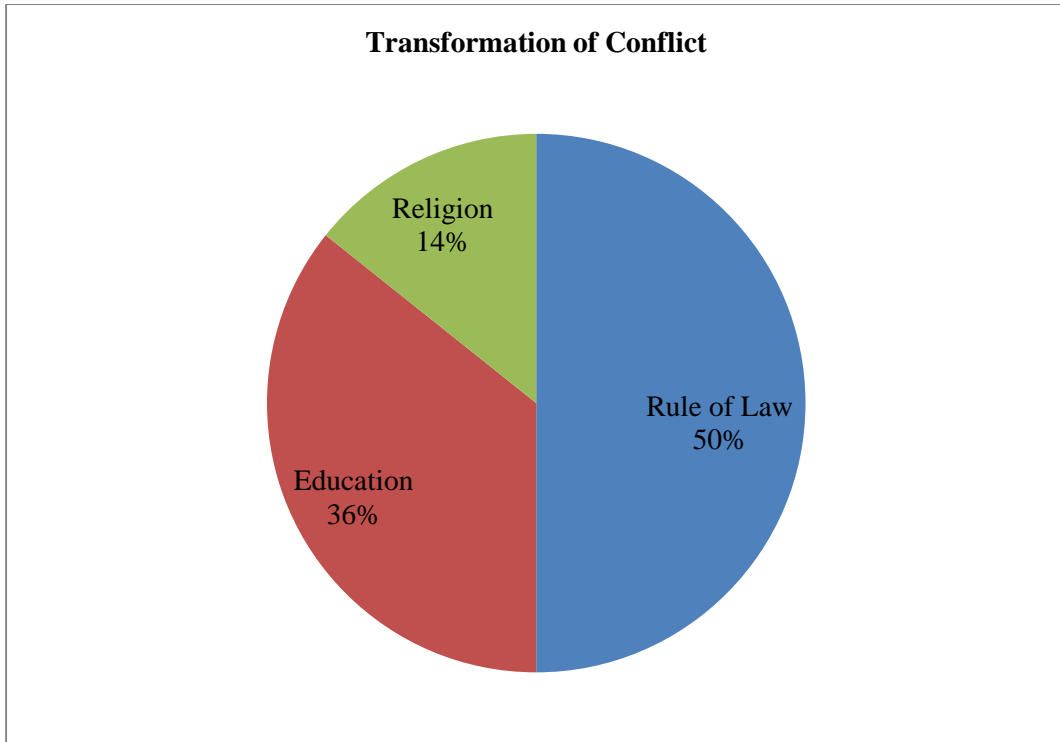


Source: Researcher, 2016

#### 4.8.2.5 Conflict Transformation

9. Asked if the conflict was resolved, it was indicated that the conflict was slowed down by the arrival of the colonialist through the enforcement of the rule of law (50% n=7), education (36% n=5) and religion (14% n=2)

Figure 7: Transformation of Conflict



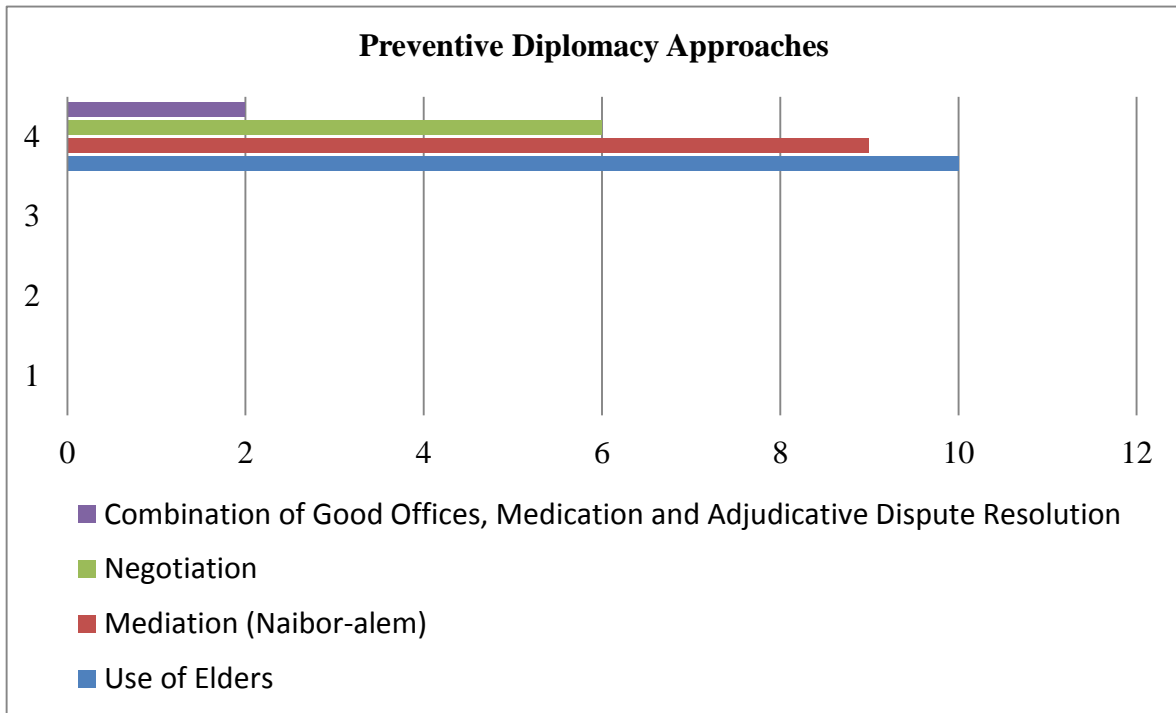
Source: Researcher, 2016

#### 4.8.2.6 Preventive Diplomacy Approaches

10. Asked to list the various approaches of preventive diplomacy used by the Maasai, the following graph shows the response. It was however clear that the responsibility of resolving conflict within the community rested on the elders (100% n=10). There was one unique approach where a combination of good offices, mediation and adjudicative dispute resolution was used (20% n=2). The chief was highly respected in the community. He thus used his good offices to bring the disputing parties together but in addition he invites independent non-partisan elders only to listen to the discussions and then calls all the parties and the elders to give their view of the dispute where the chief then makes a decision which is binding to the disputing parties. Mediation (90% n=9) and negotiation (60% n=6) were also listed as being approached utilized by the Maasai in conflict prevention.

Figure 8: Preventive Diplomacy Approaches





Source: Researcher, 2016

### 4.8.3 Benefits of Preventive Diplomacy

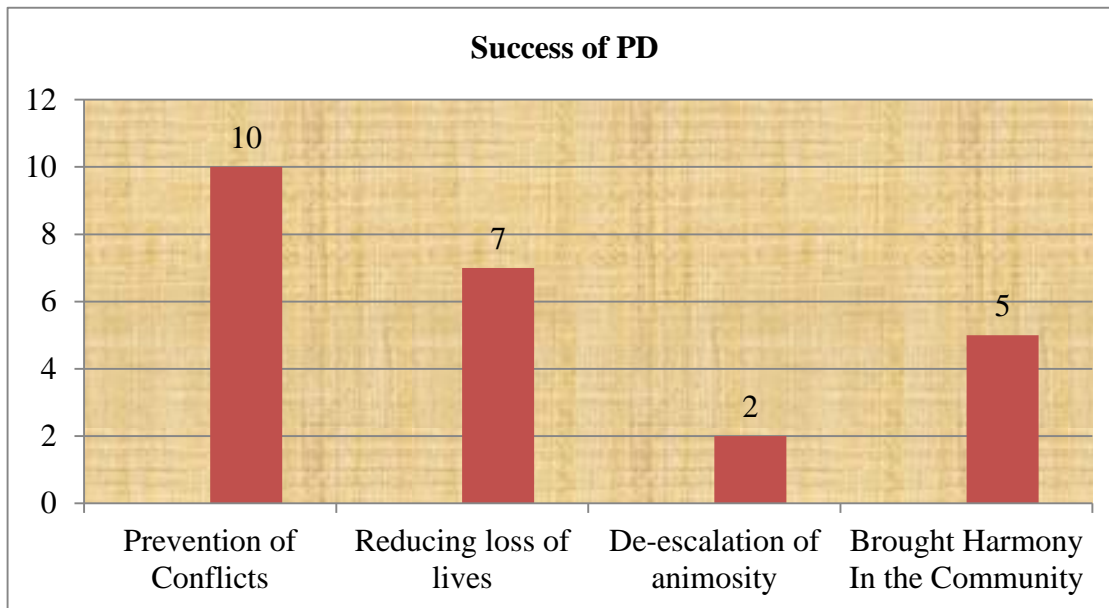
#### 4.8.3.1 Importance of Preventive Diplomacy

11. There was uniformity in the response regarding the importance of engaging in preventive diplomacy as all the elders interviewed answered the question in affirmative and also agreed that the approaches have been successful in preventing new conflicts or escalation of existing conflicts (100% n=10)

#### 4.8.3.2 Success of Preventive Diplomacy

12. When asked in which ways have these approaches been successful. The responses were prevention of conflicts (100% n=10), reducing loss of lives (70% n=7), brought harmony in the community (50% n=5) and de-escalation of enmity (20% n=2)

Figure 9: Success of Preventive Diplomacy

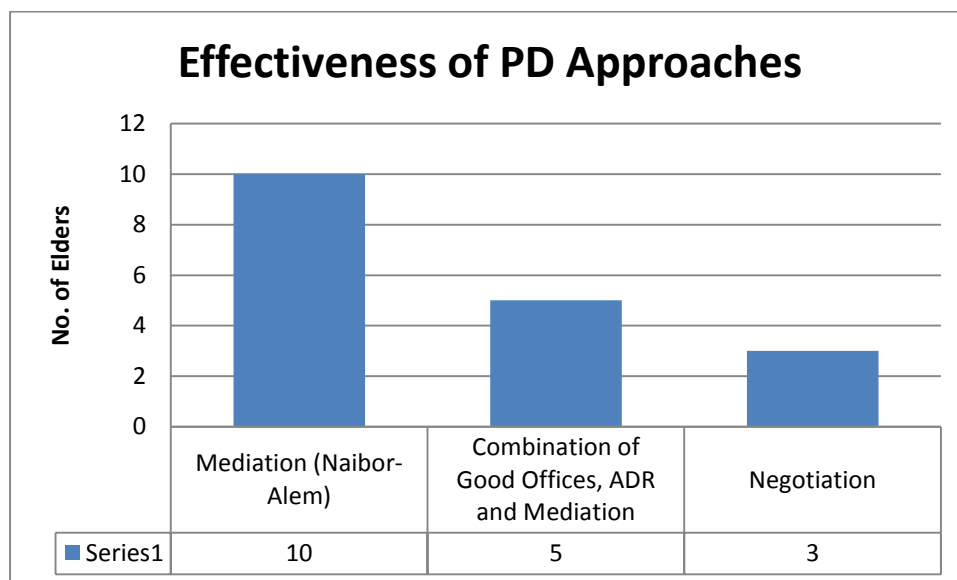


Source: Researcher, 2016

#### 4.8.3.3 Effectiveness of Preventive Diplomacy Approaches

13. Asked which approaches of preventive diplomacy have been most effective. Most of the respondents (100% n=10) indicated mediation as being the most effective, (50% n=5) indicated a combination of good offices and mediation and (30% n=3 of 10) indicated negotiation.

Figure 10: Effectiveness of Preventive Diplomacy Approaches



Source: Researcher, 2016

#### 4.8.3.4 Why Mediation

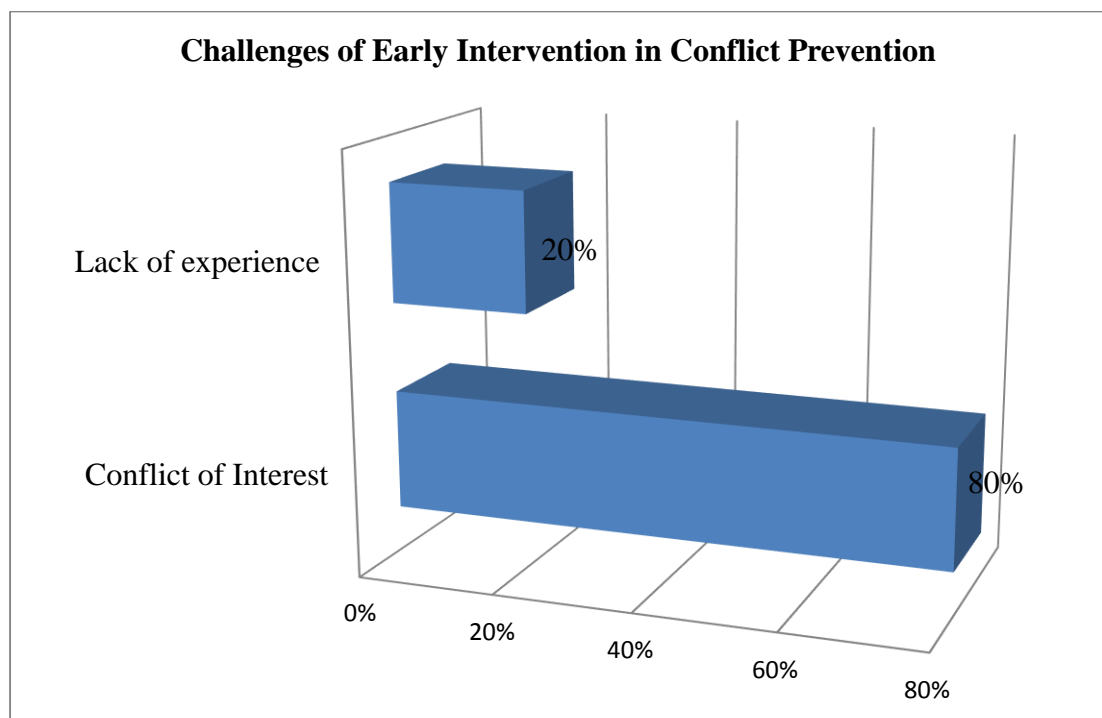
14. Asked why mediation has been more effective, they indicated that it has been utilized to solve a wide array of conflicts ranging from conflict between individuals, families, clans as well as between the Maasai and other communities(100% n=10)

#### 4.8.4 Challenges of Preventive Diplomacy

##### 4.8.4.1 Challenges of Early Intervention in Conflict Prevention

15. Asked what the likely challenges of early intervention in conflict prevention were. They sighted lack of experience (2% n=2) from some of the elders called upon to mediate during conflict and hence their lack of experience is manifested in the way they handle the mediation process at times resulting in a failed process. Majority (80% n=8) however highlighted that among the Maasai it was conflict of interest that prevented the success of early intervention in conflict prevention. This is because most of the raids were conducted by youthful Morans, their parents would advise them not to go for raids yet when they go and bring home cows, and the parents would celebrate and look at their sons as heroes who have added more wealth to the family. Family relations as well as clanism also impacted the negotiation process.

Figure 11: Challenges of Early Intervention in Conflict Prevention

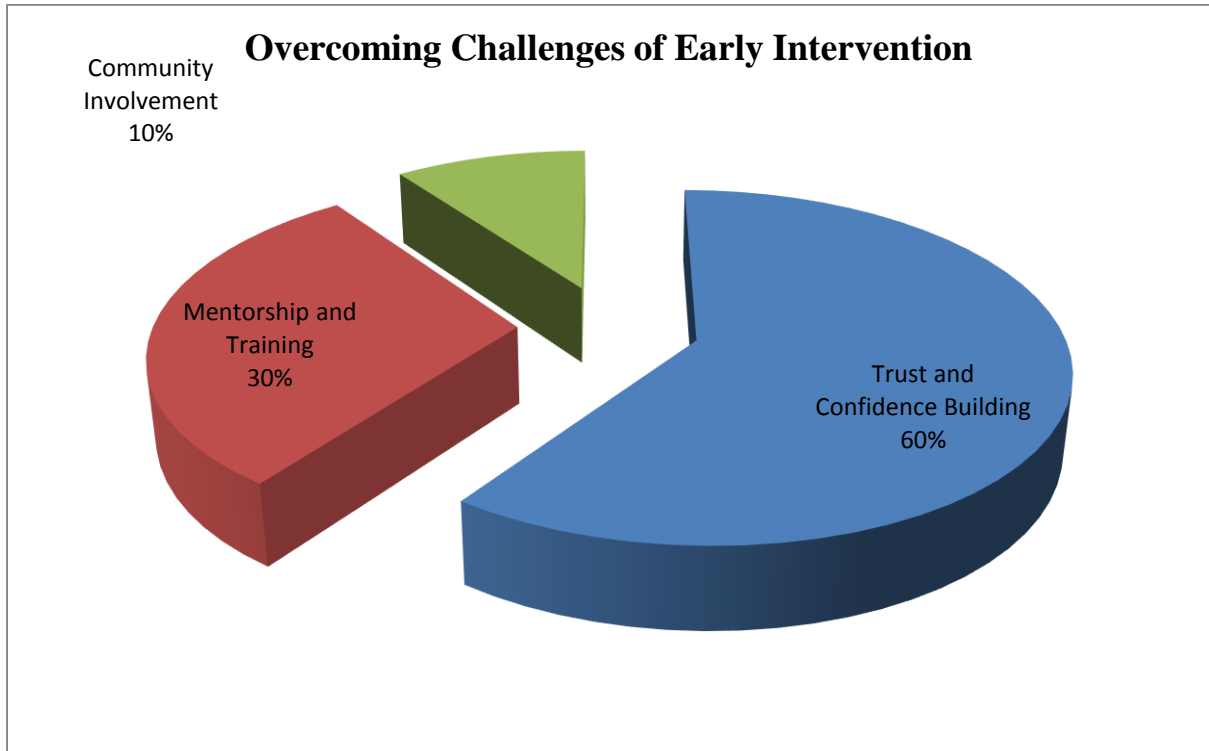


Source: Researcher, 2016

##### 4.8.4.2 Overcoming the Challenges

16. Asked how the challenges can be overcome, most (60% n=6) indicated that trust and confidence building is an important element in conflict resolution. Mentorship and training (30% n=3) young elders in the process of mediation to be able to build their capacity to handle the conflict resolution process and community involvement (10% n=1) to ensure ownership of the process.

Figure 12: Overcoming Challenges of Early Intervention



Source: Researcher, 2016

## **4.9 Conclusion**

Conflicts in most cases emanate from the contradictions, attitudes and behavior of the people within the communities; if this remains unchecked and not prevented, it has the potential of spreading to the entire nation and ultimately becoming internationalized. Appreciating the role that indigenous communities have in conflict prevention through the application of preventive diplomacy tools is paramount. As the study demonstrated, there are various preventive diplomacy approaches available which can be used to prevent new disputes and the escalation of existing tensions into violence as well as limiting the spread of existing conflicts.

It is imperative to point out that indigenous communities have a role to play in the application of preventive diplomacy in a bid to prevent conflicts. It is therefore necessary to tap into the knowledge of indigenous communities in conflict prevention in addition to other strategies in order to ensure a safe world. It is also important to take advantage of the opportunities that preventive diplomacy has presented to all the stakeholders involved in complimenting the United Nations' efforts towards ensuring international peace and security and look for innovative solutions to the challenges facing the implementation of preventive diplomacy.

The view that indigenous approaches to conflict prevention due to the fact that at times there were rituals involved is counterproductive as valuable lessons can be learnt. It is imperative to point out that most if not all the indigenous communities especially in Africa had no formal education and therefore their use of rituals signified consensus and agreement where the rituals compelled all parties to abide by the resolution made

Finally as was demonstrated by the application of the philosophy of Ubuntu, ensuring that the entire society has a role to play in preventing and solving conflict is critical and effective and thus needs to be encouraged. Lessons can be drawn from the different indigenous approaches to conflict prevention in order to build on the gains made through the application of preventive diplomacy

## CHAPTER FIVE

### SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

#### 5.1 Summary

This study assessed the application of preventive diplomacy in indigenous conflict resolution among the Maasai community in Kenya. The study provided a general overview of conflict from a global, regional and national perspectives and the application of preventive diplomacy as a dispute/conflict resolution mechanism. It pointed out the importance of not only involving indigenous communities in conflict resolution but also to learn valuable lessons in their approach in a far as conflict resolution is concerned as most conflicts emanate from communities disagreements before they take on an international dimension for example displacement of people either internally or across borders as refugees. This study therefore seeks to add to the body of knowledge relating to preventive diplomacy in dispute/conflict resolution.

Chapter one formed the foundation of the study discussing the background of the study highlighting the spread of conflict across the world and also discussed the Maasai community who were the focus of the study, statement of the research problem provided the case for the study highlighting the problem of lack of utilization of indigenous knowledge and involvement of indigenous communities in conflict prevention, objectives of the study were to identify preventive diplomacy approaches utilized by the Maasai community, the perceived benefits of preventive diplomacy as well as the challenges faced in the utilization of preventive diplomacy. Literature review looked at the literature from various scholars in the subject, justification, theoretical framework, hypothesis, research methodology and chapter outline.

Chapter two discussed the various approaches of preventive diplomacy categorizing them in three themes; rights-based approach, power-based as well as interest-based approaches. Various approaches such as mediation, adjudicative dispute resolution, negotiation, early warning systems, the responsibility to protect as well as the use of good offices were discussed. Chapter three looked at the benefits and challenges of preventive diplomacy by looking at the benefits to the United Nations, social-economic benefits, synergy and actors, political benefits and the benefits of the application of preventive diplomacy in countering violent extremism. The challenges were grouped as financial challenges, limitations to intervention, lack of

capacity by the United Nations department of political affairs and the mediators involved in mediation, lack of coordination by the various actors and the failure of intelligence and use of intelligence leading to inaction by the international community to act to prevent conflicts. Chapter four provided a critical review of the application of preventive diplomacy among the Maasai thus providing the historical perspective of conflict among the Maasai, the approaches used as well as the benefits and challenges of preventive diplomacy and the nexus between the theoretical basis of the study and the application of preventive diplomacy among the Maasai community in Kenya. Primary data was also analyzed, presented using graphs and pie charts and interpreted. Chapter five provides the summary, key findings conclusion and recommendations.

## **5.2 Key Findings**

The data analysis supports the objectives and also confirms the three hypotheses stated for the purpose of the study. The study sought to assess the application of preventive diplomacy among the Maasai having an assumption that the Maasai utilize preventive diplomacy approaches in conflict resolution. The data provided sufficient evidence that preventive diplomacy approaches have been and continues to be used by the Maasai in conflict resolution to solve disputes among individuals, families as well as intra-clan disputes. Among the approaches utilized were the use of elders due to the fact that they command respect in the community, the use of mediators referred to in Maasai as *Naibor-alem* loosely translated to mean white knife meaning their knives have no blood and thereby they are blameless and therefore objective in the mediation process, there was also negotiation as well as a combination of good offices mediation and adjudicative dispute resolution in a rather unique scenario.

It was also evident from the data analyzed that preventive diplomacy is very important as it is a proactive approach towards preventing disputes and the escalation of existing conflicts and thus it has socio-economic benefits such as limiting damage to the infrastructure, loss of lives as well as destabilization of the society's social structures. It was pointed out that preventive diplomacy approaches are important as they help in prevention of conflict, reduce loss of lives, help in the de-escalation of animosity as well as bringing harmony in the community.

The challenges experienced by the international community and specifically the UN in the implementation of PD include lack of a sufficient budget to support preventive diplomacy activities, lack of coordination of efforts by the various stakeholders involved in preventive diplomacy as well as lack of political will by the member states involved in conflict by not

allowing United Nations interventions in conflict resolution in addition to weak early warning mechanisms. Among the Maasai as the study found out, the major challenge is conflict of interest by the community members in preventing their children to engage in raids as they discourage them from participating in the raids yet commend them for a job well done when they bring home the cows they have stolen from the other clans.

The other challenge was the lack of experience by some of the young elders called upon to mediate as their lack of experience has had a negative impact in the conflict resolution process. It was however proposed by the elders interviewed that the challenges can be overcome through building trust and confidence among the community members as well as mentoring the young elders in the process of conflict resolution in a bid to ensure the success of the conflict resolution process. This therefore confirmed the hypothesis that there are challenges in the application of preventive diplomacy in indigenous conflict resolution mechanisms.

### **5.3 Conclusions**

Preventive diplomacy being an early diplomatic action aimed at preventing new disputes and the escalation of existing tensions into violence, as well as limiting the spread of ongoing conflict tactfully employs the approaches such as mediation, negotiation, conciliation, adjudicative dispute resolution, good offices just to mention a few to bring to an end situations that threaten international peace and security. It is also important to point out that the application of preventive diplomacy applies to a broad range of conflicts ranging from family, intra and inter community, national, regional as well as conflicts that take an international dimension.

The United Nations and regional organizations have successfully used preventive diplomacy to prevent and de-escalate violence in countries such as Macedonia, Guinea, Kenya, proving that early diplomatic intervention can yield positive results hence limiting humanitarian catastrophes, destruction of property, economic and political destabilization of the countries and the regions as well as the economic burden to the international community. The application of the concept by multiple stakeholders is a plus to completing the United Nations mandate of ensuring international peace and security.

Preventive diplomacy may just be the silver bullet that the world requires to prevent and solve disputes and conflicts. The concept is however faced by challenges such as lack of capacity



and experience by the mediators, funding, and inaction even when early warning mechanisms have clearly given intelligence regarding imminent conflict as well as the question of sovereignty which calls for non-meddling in the internal matters of countries. These and other challenges therefore need to be addressed if the world is to enjoy relative peace.

The study looked at the application of preventive diplomacy among indigenous community and specifically among the Maasai community. It came out from the study that indigenous communities utilize preventive diplomacy in their conflict prevention and resolution mechanisms. Institutions such as Ubuntu in Southern Africa, Gacaca courts in Rwanda as well as Naibor Alem (mediators) among the Maasai is evidence of the application of the different approaches of preventive diplomacy mainly led by the elders and respected members of the society. Conflicts in most cases emanate from the local level before they become national and even international. It is therefore paramount that involvement of indigenous communities in conflict prevention and resolution is very crucial. It became apparent that indigenous communities not only utilize preventive diplomacy but also they are very knowledgeable in conflict prevention and management which ultimately leads to sustainable solutions.

It is therefore necessary that the United Nations encourages and popularizes preventive diplomacy so that member states can appreciate the role that preventive diplomacy plays and cooperate should need arise for such an intervention. This can be achieved through emphasis on application of article 33 of the Charter of the United Nations which highlights the various mechanisms for pacific settlement of disputes as well as the appreciation and application of indigenous communities' knowledge and involvement of communities in conflict prevention without resorting to violence as wars only make a bad situation worse.

#### **5.4 Recommendations**

It is evident that the world will continue to experience conflict as conflict is endemic in society due to various factors such as struggle for power, resources as well as a feeling of marginalization among communities. Each dispute/conflict is unique in its own way due the fact that each has different issues and actors involved in the dispute/conflict. It is therefore paramount that different approaches are adopted for each conflict. In the case of the Maasai one unique approach that the study found out is the combination of good office, mediation and adjudicative dispute resolution. This study therefore recommends the refining and scaling up of this approach so that it can be utilized at national, regional and at the international levels in a bid to prevent and/or solve disputes and conflicts.

Another recommendation is the utilization of indigenous knowledge in prevention of conflict as it emerged from the study that communities utilize preventive diplomacy approaches in their unique ways resulting in sustainable solutions for the disputes/conflicts. It is therefore necessary that the United Nations taps into the knowledge of the indigenous communities in conflict prevention through engagement with the elders of indigenous communities by providing a forum for knowledge sharing preferably under the auspices of the United Nations Scientific and Cultural Organization (UNESCO) on the different approaches of preventive diplomacy and also expanding the pool of mediators through the efforts of the Department of Political Affairs (DPA) Mediation Support Units (MSU) by engaging community elders to help bring disputing parties to a negotiating table.

### **5.5 Areas for Further Research**

This study focused specifically on the application of preventive diplomacy among the Maasai community in Kenya by assessing the preventive diplomacy approached used and the benefits and challenges faced in implementing preventive diplomacy.

1. Future research can focus on the application of preventive diplomacy by different indigenous communities and how this can enrich the work of the United Nations.
2. It would also profit the body of knowledge in the area of preventive diplomacy if an assessment of the utilization of early warning systems in conflict prevention among indigenous communities is done.
3. Countering violent extremism and terrorism continues to be a challenge across the world. It is necessary therefore to do a study on innovative ways of applying preventive diplomacy to enhance counter violent extremism and de-radicalization measures.

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## APPENDIX 1: INTERVIEW GUIDE

My name is Godfrey Maripet Norpoor; I am a Master of Diplomacy student at the University of Nairobi. I am carrying out a study on the application of preventive diplomacy in indigenous conflict resolution among the Maasai community. I would like to hear your views on this. I hope that you will respond to all of the questions.

### Bio Data

1. Where do you reside? County ..... Location/Ward .....
2. How long have you lived there? \_\_\_\_\_
3. Which clan are you from? \_\_\_\_\_
4. Have you always been from this clan?  
Yes  No
5. If not from which clan were you originally? \_\_\_\_\_
6. What brought about this change? \_\_\_\_\_

### Approaches to Preventive Diplomacy

7. Are you aware of any intra-clan conflict(s) among the Maasai Community? Yes .... No .....
8. If yes, which ones are you aware of? (1) ..... (2) .....  
(3).....
9. Which of them was the fiercest? (1) .....
10. When did this conflict start? ..... Month .....  
Year.....
11. What was the cause of this conflict? \_\_\_\_\_
12. Was this conflict resolved? Yes No
13. If yes, when was this conflict resolved? Month ..... Year .....
14. How was the conflict resolved? .....
15. List the various approaches of preventive diplomacy used by the Maasai?
  - 1 .....  
2. ....  
3 .....

### Benefits of Preventive Diplomacy

16. In your opinion, is it important to engage in preventive diplomacy? Yes.....  
No.....

17. Have these approaches been successful in preventing new conflicts or escalation of existing conflict? Yes ..... No .....

18. If yes, in which ways \_\_\_\_\_

19. If not, why? \_\_\_\_\_

20. Of the approaches highlighted above, in your opinion which was the most effective?  
\_\_\_\_\_

21. Why was it effective? \_\_\_\_\_

### **Challenges of Preventive Diplomacy**

22. What are the likely challenges of earlier intervention in conflict prevention?  
\_\_\_\_\_

23. In your opinion, how can these challenges be overcome?  
\_\_\_\_\_

Thank you very much for taking your time to participate in this study. The information that you provide will be used for research purposes only and will be treated with the privacy and confidentiality it deserves.

## Appendix 2: Map of the Study Area



Source: Google Maps, 2016