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IMPLICATIONS OF HATE SPEECH ON NATIONAL SECURITY: A COMPARATIVE ANALYSIS OF THE KENYA AND RWANDA EXPERIENCES.

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DECLARATION

This research project is my original work and has not been presented for a degree in any other university.

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Signature...................................... Date...

This research project has been submitted for examination with my approval as university supervisor.

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DEDICATION

This research project is dedicated to the late Mr. Odongo who instilled in me the strong moral of self-belief, hard work and the need for pursuit of excellence. I will make you a proud father!

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I extend much gratitude to my supervisor, Dr. M.O.Ouma for his tireless efforts, unreserved support and guidance and more importantly to the almighty God for the good health.

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ABSTRACT

The international community has tried to control hate speech to avoid threats to peace and security. Scholars and researcher have lobbied for the positioning of hate speech in upcoming policies to boost state security. The aim of this study was to examine the impact of hate speech on national security comparative analysis of Kenya and Rwanda; two African countries. The research was driven by the increases in the use of language that is deemed a threat to the security in Kenya, in the pretext of freedom of expression. The setting provided by the Rwanda genocide is used to illustrate the potential danger that countries like Kenya would face in the case of misuse of the Freedom of Expression. The researcher primarily sought to examine how hate speech affects security and stability in the two African countries. The study focused on three objectives, namely: To establish the place of hate speech in the national security discourse, to examine the legal and institutional framework of hate speech management in Kenya and Rwanda, and a critical comparative analysis of impact of hate speech and national security in Kenya and Rwanda. The research adopted descriptive research design because of its precise and authentic representation of the findings. Primary data was obtained both from Kenya and Rwanda using questionnaires and interviews. The study found out that the two countries have sufficient examples to design plans of action, and are treating the subject as a matter of importance giving the reason for continued threat to national security. The adopted strategies are rated to have high effectiveness because they move closer to address the key root cause of hate speech induced conflict. It was also established that, strategies in Kenya still fail due to lack of evidence and manipulation by the political class. The study also observed that hate speech lowers the dignity of individuals resulting to frustrations, anger, emotional suffering and distress. This study recommends that, the policies put in place should be accompanied by efforts to improve the capacity of institutions, which have sought non-legal measures as a strategy to change discourse on different social issues. Consequently, media strategies should regulate the content being aired.

ABBREVIATIONS

APROSOMA	Association for the Social Promotion of the Masses
B BC	British Broadcasting Corporation
C IPEV	Commission of Inquiry on post-Election Violence
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICTR	International Criminal Tribunal for Rwanda
IRC	Independent Review Committee-
IREC	Independent Review Committee
ISD	Institute of Strategic Dialogue
ITR	International tribunal for Rwanda-
KDF	Kenya Defence Forces
KNHRC	Kenya National Human Rights Commission-
NCFGR	National Commission for the fight against Genocide in Rwanda
NCIA	National Cohesion and Integration Act
NCIC	National Cohesion and Integration Commission
NCICI	National cohesion and integration commission as an institution
NGOs	Non-Governmental Organizations
OHCHR	Office of the United Nations High Commissioner for Human Rights
PARMEHUTU	Party of the Hutu Emancipation Movement
PEV	Post election violence

PFC   Private First Class

PTA   Prevention and Terrorism Act

RPA   Rabat Plan of Action

RTLM   Radio Television Libre des Mille

UDHR   Universal Declaration of Human Rights

UDHR   Universal declaration of human rights

UNHCHR   UN High Commissioner for Human Rights

UNMM   United Holocaust Memorial Museum

USHMM   United States Holocaust Memorial Museum

WW II   World War II

DEFINITIONS OF SIGNIFICANT KEY TERMS

Hate Speech: Is a form of speech that degrades others, promotes hatred and encourages violence against a group based on a criteria including religion, race, colour or ethnicity.

Peace Building: It is utilized to prevent the recurrence of violence, by addressing the root causes of conflict and creating a stable and durable peace.

Conflict Transformation: Conflict Transformation refers to outcome, process and structure-oriented long-term peace building efforts that aim at truly overcoming all forms of revealed direct, cultural and structural violence. It hence calls for change in the general context in which conflict occurs.

Social Media: It is the collective of online communications channels dedicated to community-based input, interaction, content-sharing and collaboration

Media: Refers to the several channels used in an organized manner to communicate information to groups of people, as a service to the public. It is divided into print media and electronic media.

Peace Journalism: This is journalism with peace as the main aim i.e. a normative mode of responsible and conscientious media coverage of conflict that aims at contributing to peace-making, peacekeeping, and changing the attitudes of media owners, advertisers, professionals, and audiences towards war and peace.

Post-Election Violence (PEV): The political violence experienced in Kenya after dispute 2007 general elections.

Hate sites : An Internet hate site is a web site (or web page) maintained by an organized hate group on which hatred is expressed, through any form of textual, visual, or audio-8 based rhetoric, for a person or persons, or which provides information about how individuals can support the group's ideological objective.

Hate Crime: A criminal act motivated by bias or prejudice towards particular groups of people.

Monitoring: A broad tern describing the active collection, verification and use of information to address hate speech problems online

Law: The system of rules that a particular country or community recognizes as regulating the actions of its members and may enforce by the imposition of penalties.

INTRODUCTION AND BACKGROUND OF THE STUDY

1.0 Introduction

Hate speech has been described as "words, imageries or other types of expressions that spread or encourage hatred towards a person or a group on the basis of attributes". It can be expressed through words, facial gestures or body language. Channels and platforms such as social media, phones and other devices are used to spread messages and chats on hate speech. It can take place in a public or open place where people are gathered discussing, debating or interacting on various issues. This can lead to civil, regional, liberal and ideological war or other type of war.[1] This research therefore, examines the impact of hate speech on national security using a comparative analysis of Kenya and Rwanda.

1.1 Background of the study

Separating hate speech and rights to freedom of expression is part of the existing problem, with the latter is always considered important for development in democratic states, dignity and fulfilment of individuals. It is among the universally recognized rights enshrined within the constitutions of both Kenya and Rwanda. However, the commitment by the two countries to allow free exercise of this right has been wanting.

Proponents of the absolute freedom of expression argue that, any restrictions have a potential risk of affecting democracies. Its contrasting argument is often driven by the opinion that, the absence of restrictions may result to a wrongful utilization of the

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[1] Brown, A. (2017). *What is hate speech?* Norwich: University of East Anglia (UEA) Press

right. This may further lead to the gradual disintegration of harmony of a nation leading to violence. With the society presenting competing values, maybe it would be necessary to rethink on the importance of this right which is important in any democratic country.

The international community has tried to control hate speech by individuals to avoid threats to peace and security. International law through the ICCPR, which has been ratified by 165 nations, has Article 19 providing for the freedom of speech.[2]Enforcing Article 19 does in some cases prove challenging because of the mutating nature of hate speech. Within the international scene language took a centre stage in the determination of two International Tribunals on crimes against humanity. In The ITR the Trial Chamber convicted 3 defendants charged with these crimes which resulted to violence and conflict through incitement.[3]

Africa is a continent largely made of multilingual societies a factor that has facilitated conflicts of hate speech. Ignorance and self-interests has also contributed to more problems of hate speech. In sub-Saharan Africa, the eastern African region has had most of its member states being convicted of hate speech induced cases of conflicts. Despite frequent outcries on caution of hate speech especially that is used in public spheres, it still remains a challenge to enforce preventive measures, which will limit abuse to freedom of speech. Kenya has witnessed cycles of violence fuelled mainly by manipulation and exploitation of political leaders. Hate speech is common during election period. The Kriegler report IRC and Waki report had pointers to the misuse

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[2]UN. (1966). International Covenant on Civil and Political Rights, Adopted by the General Assembly of theUnitedNationson19December1966.Retrievedfrom https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf
[3] UNlES.(2013). *International Criminal Tribunal for Rwanda.* UN

of language, spanning the campaign period and after the election results were announced. These ranged from: organizing hooligans to "zone" to disrupt peace and stability through inciting different communities.[4] The Waki report explicitly lists negative ethnicity as one of the issues that led to the violence.[5] At the KNHRC, hate speech has been defined "as any form of speech that degrades others and promotes hatred on basis of criteria including, religion, race colour or ethnicity". This encompasses any speech, derogatory words and remarks by any citizens or publication which discriminates any community based on the above.[6]

Kenya presently portrays some elements which are essential for the CCG. These elements include using derogatory words and remarks to describe some communities and groups. This has led to discrimination, dehumanization, degrading and marginalization of some communities. For instance, "communities such as the Kikuyus and the Kisii resident in the Rift Valley were referred to by some Kalenjin politicians as '*madoadoa*' before and during the post-election violence". Consequently, the government need to develop stringent measures and approaches to curb this vice in order to prevent the heinous events experienced in Rwanda and in 2007/2008 in the country.[7] This research therefore, seeks to show that language use by politicians, policy makers, the civil society or the general citizens of states has a key role in country's security and relationship with the neighbours. Hate speech and

[4] Dialogue Africa Foundation.(2009). *Kriegler and Waki Reports on 2007 Elections*. Nairobi: Primark Ventures

[5] Ibid, pg 52

[6] The Kenya national Commission on Human Rights (KNCHR). (2006).*Annual Report For The Financial Year 2007/2008*. Nairobi, Kenya

[7] The Kenya national Commission on Human Rights (KNCHR). (2008). *A Human Right Account of Kenyan's Post-2007 Election Violence*. Nairobi, Kenya

security are two inseparable aspects when considering integration and stability of a nation.[8]

Rwanda suffered genocide in 1994 which led to mistrust among the citizens. Radio Television Libre des Mille spread hate speech which exacerbated the situation in the country.[9] The message that was being portrayed was that "the enemy is the Tutsi.[10] It is estimated that 9% of genocide deaths can be pinned on incitement by the radio broadcast. The estimated impact shows the power of hate speech to translate words into actions with undesirable consequences to the people living in those environments. Thus, there is need for states to curb the spread hate speech as a means to avert future conflicts. The study set to investigate the implications of hate speech on national security in Kenya and Rwanda.

1.2 Problem Statement

Despite the efforts byconstitutionally legalised bodies dealing with cases of hate speech such as in Kenya; NCICand other bodies such as the Kenya police, The CAK and the media council control online hate speech, there is still hate speech cases among politicians, bloggers and in the social media. This is attributed to factors such as anonymity, freedom of speech, ability to create, open and publish any time of the day and lack of clear understanding by people on what constitutehate speech.

There exist several ways to curb hate speech such as creation and enacting of laws, sensitization through workshops, Education and electronic media publications and

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[8]CRECO. (2012). *Building a Culture of Peace in Kenya Baseline Report on Conflict-Mapping and Profiles of 47 Counties in Kenya*. Nairobi: Myner Logistics
[9] Kressel, N. J, (2002). *Mass Hate: The global rise of genocide and terror.* New York: West view Press
[10] Ibid.

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enactment of a software tool that detects and alert presence of hate speech within the social media. In addition, hate speech hotlines and complaint forms, working with Internet Service providers, victim support and Community building amid many other control tools and strategies could be used to monitor and control hate speech.However, due to inadequate or lack of these monitoring techniques, incidences of hate speech are on the rise most of which go unnoticed or unpunished.

Hate speech disrupts peace and stability through violence and crime and often leads to social economic challenges in the societies. A case in point is the"Kenya2007/2008 post-election violence and Rwanda 1994 Genocide". The finding of such analysis will assist in combating the spread of hate speech in Kenya and Rwanda. Therefore,there is need to investigate the implications of hate speech on national security in Kenya and Rwanda.

1.3Research Questions

  i. What is the place of hate speech in the national security discourse?

 ii. What are the legal and institutional frameworks of hate speech management in Kenya and Rwanda?

iii. What are the implications of hate speech and national security in Kenya and Rwanda?

1.4 Research Objectives

1.4.1 Main Objective
To examine the implications of hate speech on national security: a comparative analysis of Kenya and Rwanda experience.

1.4.2 Specific Objectives

i. To establish the place of hate speech in the national security discourse.

ii. To examine the legal and institutional framework of hate speech management in Kenya and Rwanda.

iii. A critical comparative analysis of impact of hate speech and national security in Kenya and Rwanda.

1.5 Literature Review

This section covers the theoretical and empirical literature review; theoretical literature examinestheories and discussion around hate speech and national security.Empirical literature covers academic literature on hate speech and national security in the national discourse, the legal and institutional frameworks of hate speech in Kenya and Rwanda and a comparative analysis of impact of hate speech on national security in Kenya and Rwanda.

1.5.1 Theoretical Literature Review

1.5.1.1Relative Deprivation Theory

Relative deprivation theory was developed by Samuel Stouffer and his colleagues' in 1949. The theory was developed to assist in tiding over the gap that existed between two levels which include individual and social. Relative deprivation is "the discrepancy between the value expectation and value achievement that is between what people believe they are right entitled to and what they are capable of getting and retaining."[11]

This is catalysed by the group one affiliates and compares with which determines his or her belief, character and their expectations which is likely to generate conflict from

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[11] Walker, I., & Smith, H. (2001). *Relative deprivation: specifications, development, and integration.* Cambridge*:* Cambridge university press,

an individual to a group conflict.[12]In line with this study, when a group of people in the society or community perceive being deprived basic and essential needs, they tend to organize and join social movements in order to agitate for their rights. This in most cases results to social disorders which distorts peaceful coexistence.

The major problem with relative deprivation as an explanatory theory for conflicts is that, it is highly subjective and cannot therefore be measured by any objective criteria. Also, unless it is elevated to the group level, relative deprivation still remains an unsatisfactory basis on which to explain social conflict.[13]

1.5.1.2 Frustration – Aggression Theory

Itwas proposed by psychologists "Dollard, Doob, Miller, Mower, and Sears in 1939". It has two major propositions: that all aggressions areas a result of frustrations and all frustrations is aggression.[14]They argue that human beings are not naturally born with aggression but it's a condition that is activated by conditions that led to frustration.[15]

The classical statement of the frustration-aggression theory was modified later, when it was demonstrated that there are other causes of aggressions apart from frustration. Additionally, both concepts are correlated for instance an individual may become frustrated and aggressive if his goals are not achieved and if he discovers all other alternatives are not successful. It has also been established that aggression does not always follow frustrations especially in cases of instrumentals aggressions, role aggressions and socially organized aggression. These conceptual problems with the

[12]Gurr, T. (1970). *Why men rebel*. Princeton: Princeton university press.
[13] Jerry, R. (1982). Outbreaks, *the sociology of collective behaviour*. New York: New York Free Press.
[14] John, D. 1939). *Frustration and aggression*. New Haven: Yale University Press.
[15] Ibid

frustrations- aggressions theory mean that while it is useful in explaining aggression at the individual level, it does not explain it much at the social level.[16]

The search of Hitler's pure Aryan race was founded on championing the idea of the inherent superiority of one race and hence the inherent inferiority of other races. The holocaust was the result of blind and uncritical adherence to biological argument about the nature of man.

In line with this study, based on African context, psychologists accounts for some of the worst atrocities that have ever been witnessed. It also accounts for the prevalence of tribalism and tribal instincts within the social and inter-ethnic setting of Africa. In this regard, the constant massacre between the Hutus and the Tutsi in Rwanda and Burundi are based on frustrations aggressions theory and the theory of relative deprivation. In Kenya, ever since the introduction of multiparty politics, there have been instance of 'ethnic cleansing' where a particular ethnic group have been targeted for violence and displacement case of post-election violence. A conflict based on these primordial tendencies and responses does not seek much accommodation and ends up being zero-sum. The only result can polarize the conflict more and create even greater inter –ethnic animosities.

1.6 Empirical Literature Review

In this section empirical review of literature is presented. This is done in line with the objectives.

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[16] Snyder, C.R., & Howard, F. (1980). *Uniqueness. Perspectives in Social Psychology.* Boston: Springer

1.6.1 The Place of Hate Speech in the National Security Discourse

One of the principles provided human rights law is freedom of expression and speech, though it is the most abused part of the law in most of the developing and underdeveloped countries. It's however misinterpreted and confused with free speech. Hate speech is considered a political, economic and social problem which is different from freedom of speech and expression of individuals. Both countries learned a painful and regrettable lesson from the heinous incidences, which led to massive destruction of properties, loss of lives,decline in the economic growth among others. It's believed that hate speech spread by social media, phones and public rallies conducted by politicians and leaders exacerbated the violence and conflict between communities. Most of the perpetrators who were arrested have since being released, begging the question of legal mechanisms put in place to combat hate speech in both countries.[17]

Hate speech is becoming a threat to peace and stability in most of the democratic states. Different states are made of citizens from different background, religion, culture;ethnic among other aspects which can lead to ignorance and pride of some citizens who may want to override others. This in turn may result to violence and conflict. Hate speech is not constant and varies from country to country and this explains and describes its existing legal and dynamic nature. In both countries Kenya and Rwanda, hate speech is considered an offence and it's punishable under penalty code in Kenya and criminal jurisprudence in Rwanda. The government of both countries have enacted laws, policies and legal frameworks to assist in combating

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[17] Ibid

spread of hate speech. Theses legal measures and strategies specify and define what constitutes hate speech and the offences.

1.6.2 The Legal and Institutional Frameworks of Hate Speech Management

One of the rights provided and guaranteed in the international, regional and local human rights instruments is freedom of expression. However, it has been abused by some individuals regardless of the fact that there exist circumstances in which one can take actions against the offenders.[18]Various Bills, Laws and Policies passed provide for rights to freedom of Free speech and MPS are warned against their violation during parliament sessions.[19] Freedom of speech relates to the liberty to have a voice on issues, hold opinions and relay information and ideas to others in any form. It is important in democracy as it is an avenue to address issues without fear; thus, considered the best way of attaining the truth. Freedom of speech is a component of the freedom of expression. Various legal and institutional changes have been put in place both in Kenya and Rwanda to address the rising conflicts from hate speech, among them include; creation of constitutional legalised bodies such as NCICand passing of laws in parliament that deals with hate speech.

In Kenya the constitution provides for this freedom in Article 33(2) (c) which states "that the right to freedom of expression does not extend to hate speech. The Article grants every individual the right to freely express themselves but with limitations and excludes freedom of expression fromPropaganda for war, Incitement towards

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[18] UN. (1966). International Covenant on Civil and Political Rights, Adopted by the General Assembly oftheUnitedNationson19December1966.Retrievedfrom https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf

[19]Ibid

violence, Hate speech, or Advocacy for hatred". In addition, it provides a fine for violators.

NCIC is an institution that was established with an aim of creating awareness to the public and combating hate speech in Kenya. It was an institution created to handle the dynamics of hate speech. It is therefore prudent that, freedom of expression is granted to citizens though exercising though it is subjected to limitation. The imperial entitlement is always protected because the will of the majority in society is often let out and understood through communication.[20] Freedom of expression has also been an element holding democratic governments to account and further influencing the manner in which such governments affect the will of the people over which it governs.

1.6.3 Impact of Hate Speech and National Security

There are various social impacts of hate speech that can be attributed to hate speech on national security. Among them is loss of lives, family conflicts and increased mistrust. These social implications if not addressed can have negative implications on the society. Political impacts of hate speech ranges from civil wars, political enmity and poor distribution of resources. It is true that, most cases of hate speech have been reported from the politicians and the political class in most democratises. Hate speech is common among the politicians during the campaign periods because politicians always want to incite their supporters towards certain manifesto.

Unequal distribution of resources is a factor that can be attributed to hate speech;which creates violence and threatens the economy of a country that may

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[20] The Raith Foundation. (2013). Hate *Speech and Freedom of Expression in South Africa.* Braamfontein, South Africa: Freedom of Expression Institute

depend ontourism as a source of economic income. Additionally, possibility of violence and conflict may scare away investors thereby affecting the economic growth and development in the country. In Kenya during the post-election period, there was a policy by the opposition supporters to boycott certain good and services.

Striking a balance between the enjoyments of an individual's constitutional right, has become a problem. Approaching issues in a broad mind and tolerance in a pluralistic society maintains and sustains democracy. However, the value of democracy is threatened and undermined by hate speech which leads to discrimination and marginalization of certain groups of people in the society which triggers violence and crime.[21]However, there is a difference between hate speech and hurtful language as, hurtful language can be tolerated and taken to form a democratic discourse unlike the formal.

1.6.4 Gaps to the Literature

From the above literature this study has established that the place of hate speech in the national discourse for Kenya and Rwanda are not very clear. Thelegal and institutional dynamics of hate speech in Kenya and Rwanda has not been very clearly outlined by various scholars. It is also evident that there is no comparative analysis of impact of hate speech and national security in Kenya and Rwanda.

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[21]Pillay, K., & Azriel, J. (2012). Banning Hate Speech from Public Discourse in Canada and South Africa: A Legal Analysis of the Roles of Both Countries' Constitutional Courts and Human Rights Institutions. S*outh African Journal of Public Law*, 12(2).

1.7 Research Hypotheses

H₁: There is a clear legal and institutional dynamics on hate speech management in Kenya and Rwanda.

Ho: There is no clear comparative analysis of impact of hate speech and national security in Kenya and Rwanda.

1.8 Justification of the Study

Peace, security and integration within a state are crucial in all aspects of life. This study highlights the consequences of hate speech in Kenya and Rwanda, the actors involved. There is need to further knowledge on how to handle new threats to national security especially emerging from hate speech. It has been noted that the two states have grappled to unravel the dichotomy existing between freedom of expression and hate speech. Freedom of expression is considered a basic right that sets liberal societies apart from those considered to be undemocratic. This will cover policy justification, academic justification and the general public.

1.8.1 Policy Justification

This study is important because it will be used to formulate new policies and dynamics and refine the existing ones on hate speech and national security. It will also help in establishing well-organized and competent institutions, robust regulatory frameworks and efficient and flexible fiscal regimes that will aid in combating hate speech.

1.8.2 Academic Justification

From the literature the study has established that there is insufficient literature as far as hate speech and national security is concerned. This study intends to generate literature to present and future academicians in the area of hate speech and national security. It would hence provide more insight that may be used by other scholars for future research.

1.8.3 The General Public

Hate speech has had devastating effects on the ordinary population therefore, this study intends to find solutions to this effecton the economic, political and socially. The findings generated from the study will also enlighten the public on devastating impacts of hate speech on the national security.

1.9 Theoretical Framework

In his book, "harm in Hate Speech", Jeremy Waldon provides a systematic theoretical framework for legal regulation of hate speech. His argument is categorized into four main issues; firstly, "harm in hate speech results from speech that is written rather than spoken speech. Secondly, the harm in question should result to damage in dignity of people based on defamation related to certain characteristics they share with a group. Thirdly, he argues that harm to the dignity of order of society is distinct from the individual offence hate speech may cause. Lastly, he insists that although regulating to prevent this harm may have some costs, the benefits justify the normal practice in democratic societies of regulating speech". Weldon's views that, the negative impacts of "hate speech" have no implications on the offender especially in democratic societies According to him derogatory remarks and words written are

more important than the spoken ones. He puts, "libel is much . . . more serious because the imputations it embodies take a more permanent form". [22]

Weldon's primary concern is that harm to dignity results from impacts of "hate speech".He further argues that, the status one holds is society is of value and should be accepted and respected. He concludes by stating that "Hate speech and group defamation are actions performed in public, with a public orientation, aimed at undermining public goods". Hate speech legislation advocates for equality of all citizens and abolition of discrimination of communities and certain groups based on race, nationality, sex, religions or other criteria.[23]

1.10 Conceptual Framework

A conceptual framework "represents the researcher's synthesis of literature on how to explain a phenomenon". Thus, it identifies the variables required in the research investigation.[24]In this study, it is conceptualized that hate speech monitoring and control tools, hate speech sensitization, existing laws and legal frameworks influences the effectiveness of hate speech of national security in Kenya and Rwanda.

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[22] Waldon, J. (2012). *The Harm in Hatred speech.* Cambridge: Harvard University Press.
[23] Ibid..pg14
[24]McGaghie, W., Bordage, G., & Shea, J. (2001). Problem statement, conceptual framework, and research question. *Academic Medicine Journal,76*(9), 923-924.

Figure 1:1 Conceptual Framework

Independent variablesModerating variables Dependant variables

Hate Speech Monitoring and Control tools
☐ Real time monitoring
☐ Retrospective monitoring
☐ Discourse and content analysis

Human Rights on freedom of speech
(National and international institutional and legal dynamics)

Peace Building impact
☐ Conflict Resolution
☐ Integration
☐ Cohesion
National security being the most important aspect of all the peace building process

Hate Speech Sensitization
☐ Workshops
☐ Awareness
☐ Social Media Education
☐ Print and Electronic Media Publication

Hate Speech Laws
☐ Kenyan Constitution
☐ International and regional initiatives
☐ Civic rights

Source: Researcher, 2019

1.11 Research Methodology

1.11.1 Introduction

This section covers the research design,locationsite, target population, research sample and sampling frame,data collection tools, data analysis, pilot study, scope and limitations andlastly ethical considerations.

1.11. 2 Research design

The researcher adopted the descriptive research design. The design was adopted because of its precise and authentic representation of the findings. Primary data was obtained using questionnaires and interviews. Therefore, this study design was deemed as the best to fulfil the objectives of the study.

1.11.3 Research Location

Location was considered important for the research to factor in the different cultural and historical settings, which motivate certain responses and which probably contribute to instances of hate speech in some cases. Nairobi County was considered suitable for this study because of the cosmopolitan nature of the city, availability of academicians, policymakers, high commission officials/staffs and the targeted household population.

1.11.4 Scope and Limitations of the Research

The research was limited to the content analysis of the implications of hate speech on the security of a nation; a comparative analysis of situation in Kenya and Rwanda. Some constraints the researcher faced during field work were time constraints, limited resources to undertake the planned research and lack of cooperation from the

respondents thus limiting access to some information. This was predicted especially when dealing with the Rwandese nationals.

However, mitigation measures were put in place to reduce the effects of the above-mentioned challenges. For instance, to work within the limited time frame, the researcher where possible sent the questionnaires online. The researcher also employed a research assistant to assist in the distribution of questionnaires in order to cover a larger population sample within the limited time frame. Finally, the researcher used diplomatic means to convince unresponsive respondents to cooperate, by enumerating on the benefits of the outcome of the research. The researcher also applied secondary data where possible in line with the objectives.

1.11.5 Target Population

This research targetedacademicians, policymakers, high commission officialsand victims of hate speech prosecution both in Kenya and Rwanda.

Table 1.2 Sample Size

Category	Designed Sample	Sample Technique
Academicians	10	Purposive sampling
Policy makers	10	Sample random
High commissioner officials	20	Sample random
Household	100	Sample random sampling
Total	**140**	

Samples were drawn from various target groups. The questionnaires were completed by sixty Kenyans representing seventy five percent response rates from the expected

population size of eighty respondents. Of the sixty questionnaires received, only fifty met the threshold for having sufficient responses to be used in this research.

1.11.6 Sampling Frame

The study used simple random sampling approach to determine the population to be interviewed. From the large population, the study selected randomly individuals who were strategically informed and knowledgeable on issues of hate speech and violence. A representative sample of the population was selected randomly making each have an equal likelihood of being included in the sample.

1.11.7 Data Collection Instruments

Questionnaires were administered to interview key informants of this study.The questionnaire had section A which collected background information of the respondents while sections B to C collected information related to each of the study objectives. Interview helps in obtaining information from an interaction between the researcher and respondents. It can be structured or semi structured. Interviews also help to see the reactions, values and attitude of the respondents. They ensure that all questions are answered because the researcher can probe further in order to get more information. On the other hand, Interviews are very costly and time consuming and, in some instances, the presence of the researcher may intimidate the respondents. Quality of data to be collected may be affected especially when the respondents don't have time to reflect or consult.

1.11.8 Data Analysis

Data generated by the questionnaire was analysed using both descriptive and inferential statistics. Descriptive statistics refers to statistics that describe the phenomena of interest. In addition, correlation was used to establish the relationships between the study variables. Data from the questionnaires wasanalysed thematically. As such, it was transcribed and then organized in themes and categories that emerge. This were followed by reviewing, categorizing, tabulating, and recombining evidence to ascertain meaning related to the study's initial objectives, research questions and issues.[25]The emergent findings were used to support the findings from questionnaires.

1.11.9 Pilot Study

The questionnaire was subjected to a review by sample population expert gave their contribution towards its content. This was done to check whether the concepts in the questionnaire were clear. The input from this discussion was added to the questionnaires before distributing them to the respondents.

1.11.10 Legal and Ethical Considerations

The research was conducted whilst considering ethical issues concerning information sources and the respondents. Thus, confidentiality, privacy and informed consent were strictly observed. The research authorization from the national commission of science was sought. All other licensing requirements were sought as well.

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[25]Creswell, J.W. (1994). *Research design: Qualitative & quantitative approaches*.Thousand Oaks: Sage Publications, Inc.

1.12 Chapter Outline

Chapter One presents the background of the study, statement of the problem, research objectives and questions, theoretical and empirical literature review, justification of the study, research hypothesis and lastly research methodology.

Chapter Two establishes the place of hate speech in the national security discourse. This chapter contains an analysis on the place of hate speech within peaceful societies. It further examines theuse of hate speech by the different actors in the security scene.

Chapter Three seeks to assess the effectiveness of policies, institutionsand legal frameworks and measures on curbing hate speech in Kenya and Rwanda.

Chapter Four examines the economic, political and social impact of hate speech on national security.

Chapter Five presents the summary, conclusion and recommendations of the study. It determineswhether the objectives set out by the study have been met.

CHAPTER TWO

THE PLACE OF HATE SPEECH ON NATIONAL SECURITY DISCOURSE IN KENYA AND RWANDA

2.0 Introduction

Hate speech is a security threat within a nation as evident in the previous literature in Kenya and Rwanda. This chapterpresents findings on the place of hate speech in the national security discourse, hate speech and political legitimacy in Kenya and Rwanda, use of hate speech 'coded language' within politics and its effects on security in Kenya and Rwanda and finally the summary of the findings.

2.1 Demographic Characteristics

This section covers the education level and gender of the population in study, this study concentrated on local population, the high commissioners in the Rwandese embassy and academicians**.**

2.2 Gender

This study incorporated both male and female among the research group. Different gender is affected differently by the various socio-political and economic implications of hate speech. Hamer and Kahler describe that one gender alone cannot predict the overall behaviour of a population.[26]From the figure 2.1 below, the study observed that 32% of the respondents where female and 68% of the respondents were male. From the analysis both genders are affected differently by the different implications of hate speech.

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[26]Homer, P,M,&Kahle,L,R(1988). A structural equation test of the Value-attitude-behaviour hierarchy. Journaunalof personality and social psychology, 54(4),638-646

Figure 2.1 Gender
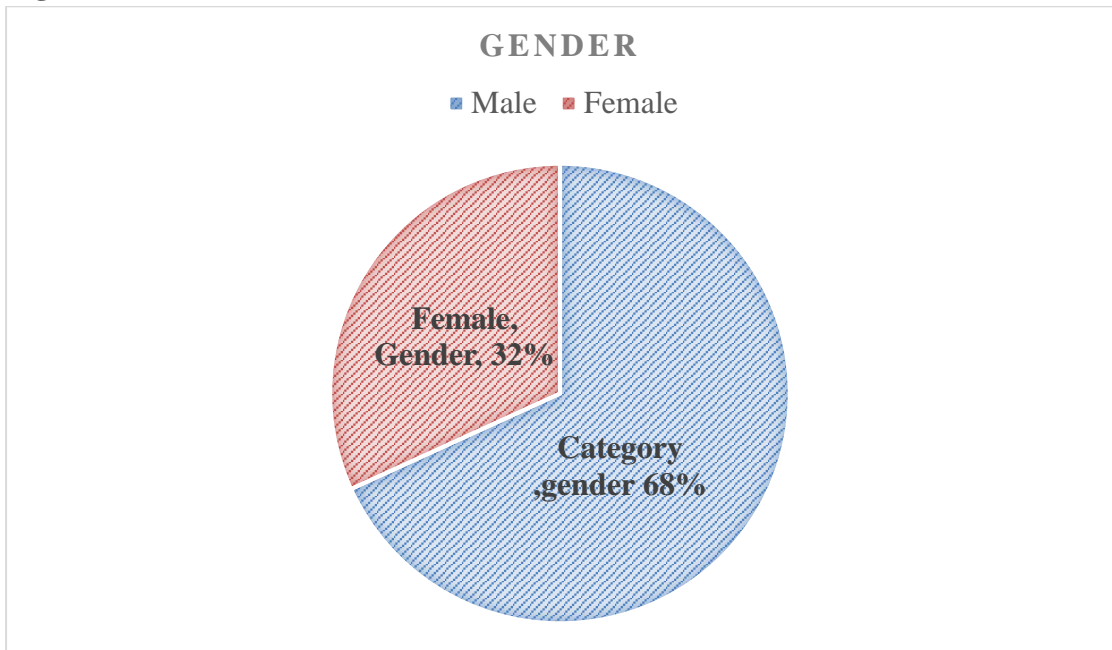
Source: Field Data 2019

2.3 Educational Level

The researcher explored various levels of education in trying to understand the various perceptions on the implications of hate speech. The level of education was very imperative in this study as it informed the level of knowledge on matters of hate speech as it is confused a lot by various class of citizens. The household population, academicians, and the diplomats from the high commission had various levels of education as indicated from the fig 2.3 below. Majority of the respondents were of below degree level 42%, followed by degree level 35%, Master's degree 13% and finally those with doctorate degree 10%. It is evident that those affected by hate speech related violence are the household population.

Figure 2.2 Education Level

Education Level

	Others	Digree	Masters	PHD
Education Level	42%	35%	13%	42%

Axis Title

Education Level .... Linear (Education Level)
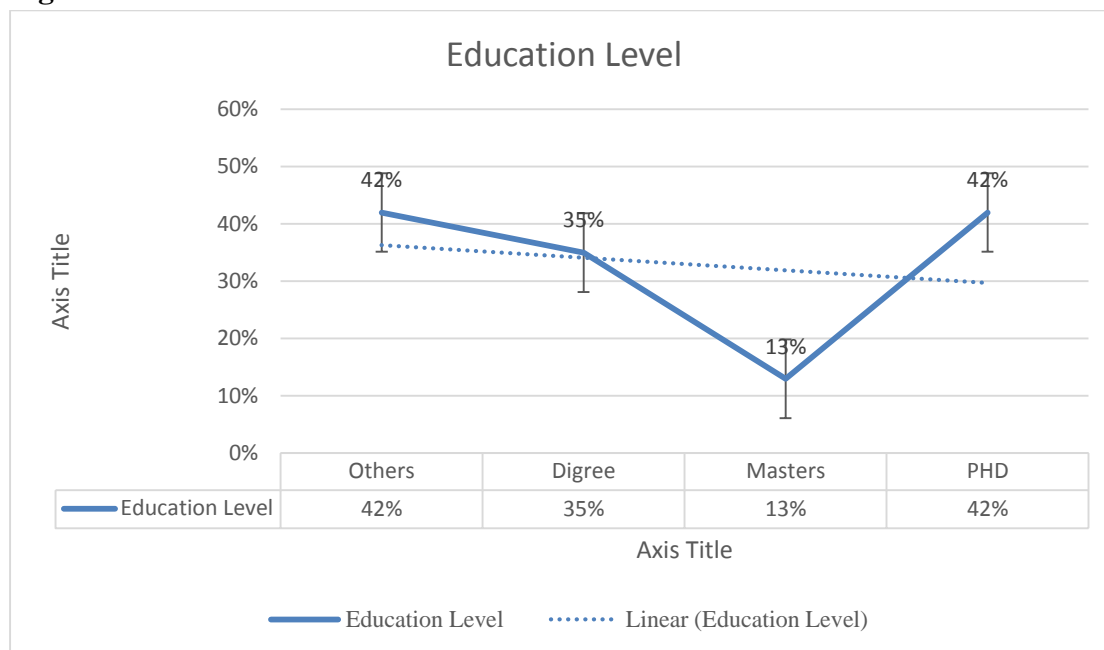
Source: Field data 2019

2.4Hate Speech and National Security Discourse

There are different perspectives from which hate speech is viewed. Different respondents whoconverged tended to conquer with the view that, hate speech have a potential for harm and extreme violence in a society. One of the Rwandese respondent viewed hate speech as a negative stereotyping which involves grouping individuals together and further making an uninformed judgment about them. In Kenya, the common stereotypes were cultural and ethnically motivated. Another school of thought from the academicians from the University of Nairobi were of the opinion that, hate speech is an incitement to violence or hatred against individuals or groups. Other descriptions of hate speech were: utterances which refer to another person as a lesser human and the use of language loaded with imageries or metaphors with negative connotations. Generally, it was understood by the general public as any form

of verbal or written aggression towards those whose identities are different from the speaker or writer.

2.5 Hate Speech and Political Legitimacy in Kenya and Rwanda

Following an interview with a Lecturer from University of Nairobi it was foundout that, hate speech is used by politicians in Kenya and Rwanda for political legitimacy. For instance, "in Kenyaa section of *NASA*opposition Senators were compelled by police to record statements after being accused of hate speech to oppress the opponents,during a political rally by the National Cohesion and Integration".[27]

The researcher observed that, some of the perpetrators of hate speech always get pardoned by the court of law mainly due to their connections with some powerful government officials. This has frustrated all the efforts by the government and other institutions mandated with combating hate speech. Most of the leader's spread hate speech through social media platforms which stir up ethnic hatred.[28] For instance in Kenya in the political arena, various leaders used it to warn, threaten and silence their opponents.[29]

2.6 Use of Hate Speech 'Coded Language' and Its Effects on Security in Kenya and Rwanda

The researcher found out that,hate speech 'coded languages' has affected the security of a nation especially when used as a ground for discrimination. For instance, one of the six Kenyans tried at The Hague, following the '2007/2008 post-election

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[27]*NASA Senators, MPs Grilled Over Hate Speech Allegations.*(2014) Retrieved from http://www.youtube.com
[28] Ibid
[29]Brison,S. (2004). *Speech and Other Acts*. Canada: The Phil Papers Foundation

violence'was a journalist accused of using coded language during media presentation. The term "mass action" as was frequently used and is still being used in the Kenyan political sphere is a code for ethnic confrontations and bloodletting. Another prominent code used in Kenya is 'watermelon' which refers to those who are indecisive in their political ambitions.

The (NCIC) have since its inception, warned on the negative use of coded language and stereotyping different ethnic communities. In a report done by theCommission, coded language is no longer a reserve of the politicians. For example, members of a certain community have been branded "thieves" while others "uncircumcised" or "dogs". Such terms only serve to aggrieve those to whom they have been directed to and have a potential of building up hatred and its resultant conflict. They are considered hate speech.

The researcher found out that,political class in Rwanda was documented as part of the main perpetrators of the 1994 genocide by using coded languages. The NCFGR examined the extent, role and subsequent effects of hate speech by some political figures in Rwanda including Joseph Habyarimana Gitera, a founder of the "Association for the Social Promotion of the Masses", documented to be among the political figures that spread hate propaganda against the Tutsi. He was quoted saying "Dear brothers present here; I can't say all what I have in my heart! Get rid of the enemy; emancipate yourself from the Tutsi's bonds in any way possible. The relationship between a Hutu and a Tutsi is like *gangrene* on the leg, *a leech* in the

body, and *pneumonia* in the ribs".[30] To him, the Tutsi was an enemy and any effort whatsoever must be put to get rid of them. Joseph Gitera is further documented to have come up with the "ten commandments of the Hutu community". In these commandments, the Hutus were not allowed to have relationships with the Tutsis.

Another notable political hate speech loaded with ethnic division was from "Grégoire Kayibanda, the first president of the Republic of Rwanda". Before his election as president, Kayibanda was very hostile against the Tutsis. Records show that in a meeting with Party of the Hutu Emancipation Movement and APROSOMA members on September 1959 he released the following statement,"Our party is concerned with the interest of the Hutu who have been dominated and scorned by the Tutsi who invaded the country. We have to be the light of the mass; we have to capture back the country and return it to the true owners. The country belongs to the Hutu"[31].

Regardless, one of the most dangerous speeches were words from the then Vice-Chairman of the National Republican Movement for Democracy and Development, Mr. Leon Mugesera. An analysis of his speech shows the readiness that he had for a collaborative effort in wiping out an ethnic community which he considered a potential danger. This can be derived from his words as follows; "Why these parents who sent their children to join the *Inkotanyi*are not arrested and exterminated. Why not arrest those people who help them to join the *Inkotanyi*? Really, are you waiting for the moment they will come back to exterminate us?"[32]

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[30] Bizimana, J.D,(2014). *The path of the Genocide perpetrated against the Tutsi in Rwanda*. Kigali: Rwanda
[31] Ibid pg22
[32] Ibid pg23

2.7 The Kenyaand Rwandan Media and the Spread of Hate speech

Media is viewed as a tool for spread of conflict. Media instruments that spread hate speech serve to negatively influence the attitudes of the people causing harm to the entire population. The spread of hate speech propaganda is common in vernacular radio stations especially during national election period.

Most reports indicate that issues dealing with democracy, politics and relationships are popular with Kenyans and have been dominating the talk shows in many of the local language stations. In fact, politics dominate the discussions every pre-election cycle. The open avenue would change to become an outlet for expressions of voices which had felt suppressed for decades. Moreover, majority of these voices expressed anger and dissatisfaction. The use of obscure, metaphorical language and defamatory remarks during discussions and debates in different radio stations makes them powerful tools of incitement.[33]

In a research on community radio and ethnic violence in Africa, Sam Howard gives examples of inciting phrases and derogatory statements. One of the respondents in the research said;"You could hear the broadcasters saying, don't mind them, the Kibaki or Kikuyu leadership will not go away. Those who are `making lots of noise are like the eyes of frogs that cannot prevent cows from drinking water". [34]

The respondent further gave examples of idioms used by some radio journalists. One Kalenjin radio station broadcaster was quoted saying; "*Odwakwekwe,* meaning

[33] CRECO. (2012). *Report, Building a Culture of Peace in Kenya, Baseline Report on Conflict-mapping and Profiles of 47 counties in Kenya*. Nairobi: Myner Logistics

[34]. Howard, J. (2019). Free Speech and Hate Speech. *Annual Review of Political Science,* 22(93) 94-109

remove the weeds. They said, remove the weeds among us and their people knew that *Odwakwekwe* referto other tribes". Others were terms such as,"we don't want spots on our skins".[35]

A clear example of high context language was in January 14, 1994 broadcast by RTLM. The broadcaster announced *"Whenwe get to the point of executing our plans, UNAMIR will get a shock."*[36] This statement is clearly ambiguous though it tends to lean more onto the negative consequences that UNAMIR would face. Additionally, morning greeting by RTLM were as follows *"Hello, good day, have you started to work yet?"*[37]From the surface point of view and especially to a foreigner the aforementioned salutation is harmless and in addition motivating. Considering the tense atmosphere that had started building up in Rwanda, the morning greeting was open to different interpretation by the different listeners. Excerpts of low context language were derived from both RTLM and *Kangura*newspaper. For example, on May 28, 1994 the broadcasters announced that "If you are a cockroach you must be killed, you cannot change anything.[38]

The above use of harsh codes further supplemented other direct genocide inciting broadcasts. GAHIGI Gaspard, an RTML Chief Editor was on record stating "We have described the Tutsis to you, these are unscrupulous people, who have sex with their mothers and their sisters and do not respect their words. These are people we cannot

[35] Ibid

[36] MIGS. (1994). *Human rights and the age of Atrocities*. Montreal, Quebec, Canada: Montreal Institute for Genocide and Human Rights Studies (MIGS)

[37] Darryl, L. (2007). *Echoes of Violence: Radio and Genocide in Rwanda,"* in *the Media and the Rwanda Genocide*. New York: Pluto Press

[38] MIGS. (1994). *Human rights and the age of Atrocities*. Montreal, Quebec, Canada:Montreal Institute for Genocide and Human Rights Studies

trust. [...]. If you tell a Tutsi extremist that he has to kill his elder brother in order to take over power, he will do so provided that his needs are fulfilled."[39]

The study also found out that, other coded words used were such as ; "*clearing bushes* for chopping up Tutsis and *pulling out bad weeds* for slaughtering the Tutsis, in additional to statement such as *don't forget that those who are destroying the weeds must also get rid of the roots* meaning that they should completely wipe out the Tutsis".[40]Additionally, Kanguranewspaper founded in May 1990 in Rwanda and written in Rwanda and French was used to spread hate speech. The founder of the newspaper Hassan Ngeze was reported to be notorious in spreading hate speech against the Tutsis community. Many examples were given as evidence against his publication in the ICTR. For example, in issue number 54, January 1991, Mr. Ngeze wrote "Let's hope that the Inyenzi [cockroaches] will have the courage to understand what is going to happen and realize that if they make a small mistake, they will be exterminated.If they make the mistake of attacking again, there will be none of them left in Rwanda, not even a single accomplice."[41]

Later on, in 1993, the newspaper called on the Hutu to kill the Tutsis within the country before hunting for those at the borders. Ngeze put across his argument by saying "There is no way that you can send soldiers to go and fight *Inyenzi* on the border while you left some others one in the interior of the country. Why not search for accomplices and Kill them?" According to ICTR, *Kangura* was played a big role to genocide due to its messages of fear and hate propaganda.

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[39]Ntawizeruwanone, J. (2008). *Hate propaganda at Work: The Case of "Radio Télévision Libre des Mille Collines"(RTLM) Broadcasts during the Rwanda Genocide*. Leicester , UK: University of Leicester

[40]Prunier, G, (1995). *The Rwanda Crisis: History of Genocide*. New York: UP

[41] Ibid

Figure 2.3 Interviews markings showing the trends in the use of hate speech during 2013 to 2017 elections
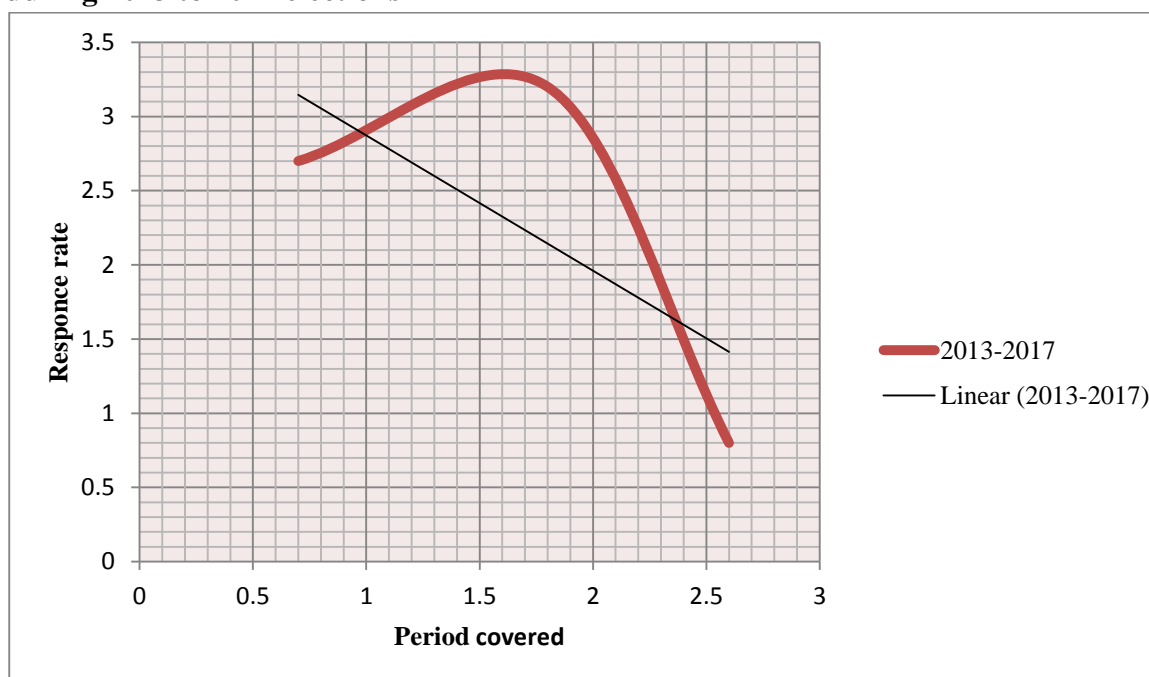
Source: Citizen Watchdog report 2013-2017 periods

2.8 Summary of the Findings

The study focused on the place of hate speech on national security discourse. Hate speech Hate Speech is used by politicians in Kenya and Rwanda for political legitimacy. Most of the leaders who incite different communities based on ethnic divisions are protected by the law and this frustrates all efforts to curb spread of hate speech. Media is considered a tool for spread of conflict especially the vernacular radio stations during election period for spreading hate speech propaganda. Use of coded hate speech language exacerbated genocide and Kenya's post-election violence which distorted the security situation in both countries.

Majority of peace, conflict, human rights and language scholars have tried to seek a solution to the potential danger that hate speech andfreedom of speech in democracies may have to the security of a nation. However, different actors examined have the

potential of changing the narrative from its current negative state to national security. Furthermore, the population is still grappling with the confusion of the freedom of expression and hate speech with further confusion from the elite leadership. The two countries have sufficient examples to design plans of action, but are countries treating the subject as a matter of importance or as another news item giving the reason for its continued threat to national security.

LEGAL AND INSTITUTIONAL MECHANISMS ON HATE SPEECH MANAGEMENT IN KENYA AND RWANDA

3.0 Introduction

Hate speech is an emerging threat to national security with the increased use of social media which has triggered legal and institutional dynamics on hate speech management. This chapter discusses the findings on international conventions provisions on hate speech, an overview of Kenya and Rwanda's post genocide policies on hate speech, legal provisions on hate speech in Kenya and Rwanda, challenges facing "Hate Speech" laws in Kenya and Rwanda, role of the (NCIC), alternative communication based approaches to counter hate-speech in Kenya and Rwanda and finally summary of findings.

3.1 International Conventions Provisions on Hate Speech

Under the new constitutional dispensation, international law forms basis of the both Kenyan and Rwanda legal system. It is thus justified to examine the role of international conventions especially with a focus on hate speech. Hate speech in itself is not explicitly defined in any international conventions. It is however invoked in some ideas and concepts linked to human rights. In examining the provisions provided in UDHR,Article 7 mentions the right to equality, protection and prohibits discrimination of person's in any circumstance.[42]

It further states that,"everyone has a right to freedom of expression including freedom to hold opinions without interference and to seek, receive and impart information and

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[42]UDHR(2016). *Article 7: The Equality and Non-Discrimination Provision.* Cambridge: Open Book Publishers

ideas through any media and regardless of frontiers".[43] In as much as there is an entitlement to free of speech, it could also be inferred to mean that every individual is also protected against hate speech, if such a speech has discriminatory elements within it. UDHR was important in setting the agenda for human rights protection; subsequent conventions have been created to address issues dealing with freedom of expression. These include: theICPRC, CPPCG (1951), ICEFRD of 1969 and closely related to this research within the ICTRS. However, Article 19 of UDHR"provides for the right to freedom of expression and is followed by Article 20 that expressly limits freedom of expression". The two Articles have been contested by some countries which feel that Article 19 is sufficient in dealing with hate speech without the provision in Article 20.Based on detailed analysis of the provisions by Article 19 and 20, some human rights advocates are of the opinion that restrictions to rights provided on ICCPR is susceptible to abuse.[44]

Consequently, the UN has consistently advocated for a shared comprehend of the vice and the effective ways to approach it. Reviewed literature extensively showed the importance of the RPA on the prohibition of "national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence" as instituted by the UNHCHR. Its limitations as pointed out in a UNESCO series on internet freedom are that, it does not extensively address issues of incitement based on different criteria's.

[43] Ibid, Art 19.
[44] UNHR. (2008). *Report of the United Nations High Commissioner for Human Rights Addendum, Expert seminar on the links between articles 19 and 20 of the International Covenant on Civil and Political Rights.* Geneva, Switzerland

3.2 An Overview of Kenya and Rwanda Policies on Hate Speech

Research findings indicatethat both countries Kenya and Rwanda are extremely cautious over any activity or pronouncement that has a potential of negatively affecting the prevailing peace. Both countries have adopted measures aimed at restricting any form of speech, whether in public or within private confines, that can be taken to promote violence and divisionism especially after post elections violence and genocide incidences.

With this, significant progress has been made towards maintaining peace. This has been done through enactment of laws, setting up agencies which promote remembrance and compensation of victims of post-election violence, genocide remembrance, carrying out grassroots reconciliation efforts and a number of civic education initiatives. There are concerns that some of the measures have encroached into the freedom of expression. The government is however trying to ensure that, policies in place are not viewed as punitive, rather as an effort to foster unity, in response to the severe divisions that deepened hate speech in Kenya and Rwanda.

3.3 Legal Dynamics on Hate Speech in Kenya and Rwanda

Following the two unfortunate events that occurred in Kenya and Rwanda, hate speech is prohibited and criminalized by respective domestic laws. The laws may however differ in their approach towards hate speech, whereby some do not directly refer to hate speech but makes reference to other acts which are linked with it. For example,"Section 3 of the law on the prevention, suppression and punishment of the crime of discrimination and sectarianism states that, the crime of discrimination occurs when the author makes use of any speech, written statement or action based on

ethnicity, region or country of origin, colour of skin, physical features, sex, language, religion or idea with the aim of denying one or a group of persons their human rights".

The researcher found out that both legal systems has also placed strict regulations on the political arena. Article 37(1) of the Organic law "prohibits speeches, writings and actions based in or which might lead to discrimination or divisionism". Instead, politicians are encouraged to be advocates of peace and reconciliation. Anti-hate speech laws have been supplemented by Articles 135 and 136 of the Penal code. Journalists and media practitioners in Rwandaare currently guided by the Media Code of Ethics. Article 13 of the Rwanda media Code states that,"journalists must desist from inciting violence of any kind, including ethnic or religious hatred, tension and animosity".

3.4Challenges Facing "Hate Speech" Laws inKenya and Rwanda

Hate speech is considered a serious offense punishable by law in bothcountries. It's an issue that have been criticised and politicised by politicians and lawyers who argue that, arresting and prosecuting an individual on basis of hate speech, may threaten and damage a countries security due to polarization of ethnic politics.[45]

Furthermore, the findings revealed that,interpretation of what constitutes hate speech is another challenge confronting the judicial apparatus of both countries. Most of the cases reported, the suspects defend themselves by arguing that, what they said was misinterpreted. This often makes it difficult to weigh both sides and give a neutral verdict therefore challenging national security. More so, the whole process is an

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[45] Klopp, J., & Mutua, M. (2008). *Kenya's Quest for Democracy*. Boulder: Lynne Rienner Publishers

expensive affair that requires resources in following up every individual convicted of spreading defamatory remarks. It's also challenged by lack or inadequate records on the speeches made by various individuals who are considered as hate speech. The laws though fail to differentiate between (political speech) from (hate crime) which results to its misuse by people taking advantage.[46]

From the research findings, majority of the respondents argued, it is evident that most cases lack sufficient evidence that the suspects committed the crimes they are prosecuted for. The effect of hate speech on peace and stability is another challenge confronting the Kenyan courts. One of the respondent argued that, when two communities are convicted of hate speech in most cases it's politicised and issues of constitutional rights raise prompting the court of law, to weigh the grievances of both parties and make decision based on who is right or wrong or either dismiss the case in its totality.The researcher also found out that, court processes are prolonged, complex and costly to handle. Further, the process of getting hard evident is difficult which usually   prompts the court to terminate the cases.

The respondents also posit that, some crimes such as cybercrimes are not easy to handle and follow due to advancement of technology andhi-tech means of communication that requires additional technical skills and application. It's also difficult to track down the owners of information on social media and websites, since people use pseudo accounts to pass information. [47]One of the respondents said "the technicality involved in the use of digital media renders the prosecution of cybercrime related to hate speech more complicated. So far courts tend to avoid crimes that have

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[46] Ibid
[47]Ibid

not been interpreted by national international laws such as cybercrimes. It is at the discretion of the prosecutor to decide whether the matter is to be taken to court or not".

Lastly, the findings show that, apart from political power, poverty is also one of the challenges confronting hate speech crime. In most cases the law favours the rich and well-connected individuals convicted of hate speech, simply because they are able to pay and bribe the lawyers and the judges to rule the cases on their favour. This always disadvantages the poor and vulnerable individual who cannot afford the finances to corrupt and eventually, ends up in jailfor hateful speech allegations. This therefore begs the question of access to justice which requires further debates. Section 46A provides that,"situation in which the Office of the Director of Public Prosecution fails to act on hateful speech or stops the Court from proceeding with a case due to political influence is tantamount to justice denied".

3.5 Role of the NCIC

The research study found out that, NCIC was created among others agencies to enhance peaceful coexistence and unity in the country. It is a constitutional body that supports and promotes policies and measures that prohibits any form of discrimination.[48]It calls for Kenyans to support and embrace diversity. This agency has been on the forefront in condemning hate speech in Kenya. The NCIC is guided by the NCIA, which has clear descriptions on what is considered as hate speech.

 The institution has also formulated guidelines aimed at helping journalists in understanding and reporting of hate speech. In addition, it has also developed training

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[48] Op, cit

manuals for the police and general public. However,NCIC has faced challenges in effectively implementing its mandates. The challenges are attributed to the lack of clarity in the Kenyan law on issues dealing on hate speech.From the findings, a close examination of the NCIA Act reveals that, it has placed a limitation on ethnic hatred only, despite there being potential hatred from other identity-based groupings like religion, gender, nationality, sexual orientation among others.

From the findings established by this study, NCICstaffs argued that, in most cases NCIC has resorted to sending warning letters or notices to public officials whose speech they deemed hateful or dangerouswhose alternative would be a crime warrant because the law is not clear on hate speech.[49]The institution is however, credited for unearthing evidence that eventually led to the charging of three kikuyu musicians for two counts of incitement to violence and one of hate speech, before the 2013 general election in Kenya.

3.6Counter Hate-Speech Approachesin Kenyaand Rwanda

It is evident from the research findings that,various actors are trying to control the violation of these rights by use of legal, punitive and restrictive measures. The approach is more speaker and speech based as opposed to a focus on the listener who happens to the change the words into action. In trying to come up with effective alternatives, some NGOs have developed projects, which are more focused on the recipient of inflammatory language. The idea has seen organisations being formed to educate the public on hate speech and hate related speeches.

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[49] Benesch, S. (2014).*Countering dangerous speech: new ideas for genocide prevention.*New York: Berkman Center for Internet and Society

From the research findings the level of awareness among the citizens on legal and institutional dynamic of hate speech is graphically represented as indicated below.

Figure 3.1: Level of awareness among the citizens on legal and institutional dynamics of hate speech
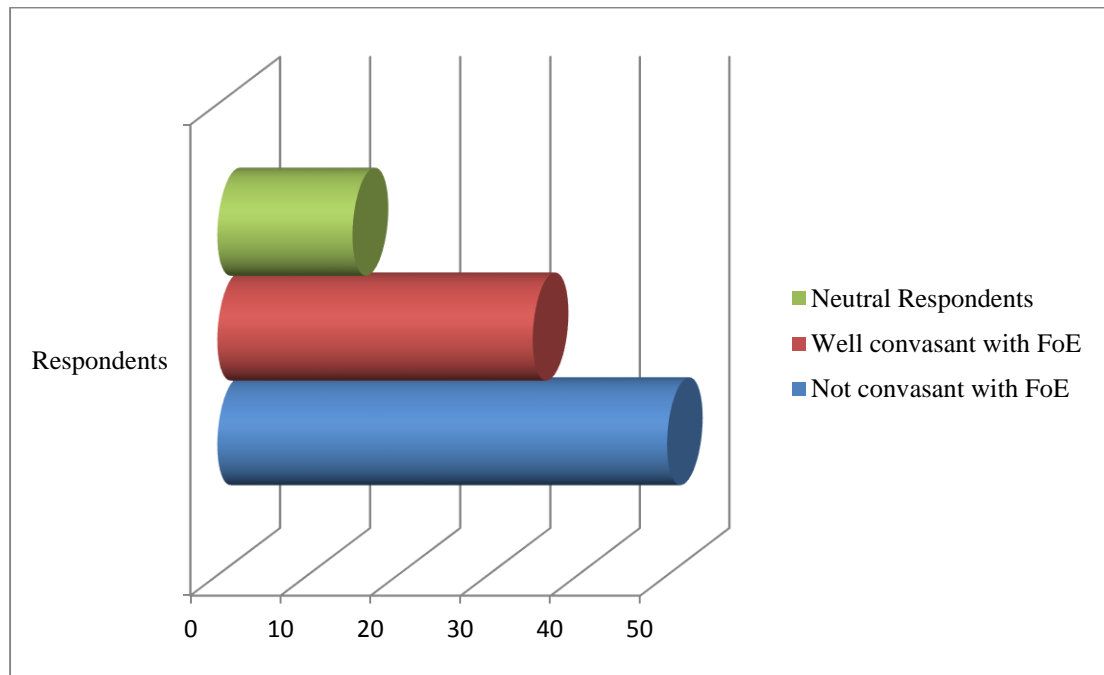
Source: Field Data 2019

This indicates that, there are high levels of ignorance which probably contribute towards the creation and escalation of language wars in the country. There are enough publications and public awarenessof the population does not take note. The general public are of the opinion that, rural areas are more susceptible to political hate speech influence. This is because majority of the respondents interviewed 50% posit that, they were unaware of the Constitutional provision on hate speech in the Kenyan Constitution. The research assumes that the sample size reflects the overall population trend. On the contrary, some respondents (approximately 35%) agreed to the existence of the legal provisions on hate speech. These were drawn from the younger

population below forty years of age. The research notes that if the informed population engages the rest of the population, the levels of responsible exercise of the entitlement will increase.

3.7 Summary of the Findings

This chapter shows that there are various legal mechanisms and approaches adopted by Kenya and Rwanda to counter hate speech especially after the incidences of Genocide and post-election violence which destabilised the countries. However, despite these strategies and mechanisms being confronted by myriads of challenges, they still stand a high success rate if they are properly executed. Focus has been on legal measures with some clauses of the law being left open thus posing a challenge of being manipulated. The law tends to be more concentrated on ethnic issues and hate speech, divisive language and derogatory language thathave currently moved beyond the confines of ethnic language. Hate speech is more rampant in Kenya than Rwanda probably because the Rwandans would not like a repeat of the genocide. Moreover, literature shows that, some of the strategies in Kenya still fail in their effectiveness due to lack of evidence and manipulation by the elites. An overall success would come from a blend of legislative and efficient social measure.

IMPLICATIONS OF HATE SPEECH ON NATIONAL SECURITY IN KENYA AND RWANDA

4.0 Introduction

This chapter intends todiscuss the findings on social, political and economic impacts of hate speechon national security in Kenya and Rwanda and finally presentsthe summary of the findings.

4.1 Hate Speech and Its Implications on National Security in Kenyaand Rwanda

Hate speech is a new concept in the academic arena. However, its social, political and economic implications on the peace and security are clear and cannot be disregarded. It results to aggression, dehumanization, degrading, violation of one's rights, frustrations and emotional distress. Furthermore, Downs, argues that,"hate speech has been a strong weapon in the past that could harm individuals by degrading, terrorizing, wounding and humiliating them".[50]It can have socio-economic and political implications on individuals, groups and society.

Kenya and Rwanda like other nations in the world are highly multilingual society a factor which presents more negative potentialities to the peace and security. These implications can be grouped into social, political and economic impacts. 70% of the respondents were of the opinion that socially,the different ethnic groups conflict with each in an effort to maintain and elevate the status of their identity and relevance within the different outfits of the society. The negative ethnicity often results into inter-tribal hatredand conflicts. However, the general public also tend to have the

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[50] Downs, D. (2012). Predicting the Importance of Freedom of Speech and the Perceived Harm of Hate Speech. *Journal of Applied Social Psychology*, 3(101), 1353-1375.

opinion that, hate speech is a way of expressing various issues affecting them as such ways of expressing their grievances.

Hate speech prosecution is a common phenomenon in established democracies. Politicians both in Kenya and Rwanda use hate speech to create tension among their supporters, which is considered a tool to mobilise political support. It can impact positively to the user by gaining political support but negatively to the other party because of the tension it creates. In Kenya politicians re-elected have been arrested and charged. This is common in Kenyan and Rwanda between the politicians leading the Hutus against the Tutsis and leaders inciting communities against each other.

From the findings obtained it is evident that, hate speech has negative impact on the economy of a nation. Because of the conflicts most investors would scare away investors and financiers. Displacement of persons would also result into loss of business and employment opportunities. Destruction of properties which would otherwise been of economic benefit is another implicationrelated to hate speech.Delayed economic growth or economic stagnation is situations common in conflicted environs. In Kenya and Rwanda, the research findings indicate that, post-election conflicts and the 1994 genocide was a factor for the increased prices of commodities which was likely because of increase in the cost of transportation. Evidently, hate speech towards a certain group of community can lead to isolation and discrimination. The target group may result into disengaging in social activities and expressing their opinions and views because of fear inflicted on them, which in return may change the existing hierarchies in the society and renders the victims become frustrated and hostile. Weldon states that,"written speech takes a more permanent

form as compared to spoken speech". This is because any information on social media platforms is easily accessible to anyone and cannot be erased or forgotten easily.[51]

The social status of an individual is very important and deserves to be accepted and respected in the society. It therefore makes one to 'one feels low' or 'less important' in the society. Weldon argues, "that hate speech lowers the dignity of the victim and hence makes them feel unequal in the society, it fuels tensions and often leads to hate crimes and violence that damages the entire social fabric, unity and stability of societies". Therefore, there is need for the government and all stakeholders to play part in condemning and curbing this vice considering it's the negative consequences.

One of the respondents posits that, hatespeech ismenacing and threatens peace and stability, because the spoken or written words are powerful and can induce reaction by different people. This can lead to ethnic division between communities and bigotry both politically and socially as well as damage the lives of vulnerable in the society or those it targets. However, the study findings established that,the efforts embraced by different governments and stakeholders to curb the vice, might be regarded as abuse of right of expression and also refutes the democratic principles and standards. These rights cannot be restricted because they benefit the vulnerable in the society, who are prone to discrimination and exploitation. Provisions of freedom of expression provide an opportunity where they can air their grievances and action taken. This is supported by Gelberdebates which he argues that, "free speech is a fundamental human right, an

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[51] Waldon, J. (2012). *The Harm in Hatred speech.* Cambridge: Harvard University Press.

intrinsic good and a cornerstone of liberal democracies".[52]Therefore, it's a prerequisite condition that every democracy state should be uphold.

4.2 Political Implications of Hate Speech

The researcher in trying to find out why politicians use hate speech, 32% of the respondents are of the opinion that hate speech is used by politicians to gain political mileage and popularity among the supporters, while 26% are of the opinion that hate among themselves provoke them into using hate speech, 24% stated vote seeking, 9% are of the thought that they use it because of the trend among other politicians, the rest state that it is a tool to pass information. Other reasons are because the common citizens like hate speech among the political class, and finally because of ethnic tolerance, that politicians want to identify themselves with their community for support.

This demonstrates that politicians are likely to demonstrate their differences through hate speech and that they only unite for mutual gains that last as long as that exists only. **(See table below).**

Table 4:1 Political Implications of Hate Speech

Political reasons	Frequency	Percentage
Political mileage and popularity	9	32%
Vote seeking	7	25%
Established trend	2	7%
Tool for passing information	1	3.4%
Disunity among politicians	8	27.6%
liking among citizens	1	3.4%
Ethnicity	1	3.4%
Total	**29**	**100.0%**

Source: Researcher 2019

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[52]Gelber, K. (2002). *Free Speechversus Hate Speech Debate.* Sydney: John Benjamin's publishing.

4.3 Social Implications of Hate Speech

The researcher established that there are various social implications of hate speech that are violent related. From the research findings, it is true that the most affected areas also referred to as the hot sports of hate speech related violence are the low-income setups both in the urban and rural areas. The research findings have also established that the most affected class of individuals are the youth who are the majority of the unemployed. They are used by politicians to cause violence in the society. From the research findings an individual cited ethnicity is one of the social aspects that is being used to fuel violence, social hate and other social implications of violence.

4.4 Economic Implications of Hate Speech

The researcher has established various economic implications of hate speech that ranges from poor relationships among the various trade partners, decline in the strength of the currency, fear among the investors who would prefer not to invest within the violence affected states. From the research findings 75% which are the majority agreed with the idea that the GDP of any nation will depend on the political atmosphere or hate speech related violence, others (25%) had various arguments and opinion that other factors will come into play and may not necessarily be true that violence will affect the GDP of a nation. The graph bellow sows representations of the same.

Figure 4.2 Graphical Representation of the Reflection of Economic Implications of Hate Speech Related Violence

Economic implications of hate speech in Kenya and Rwanda

	Respondents
■ Yes	71%
■ No	23%
■ Others	6%

Openion of respondents
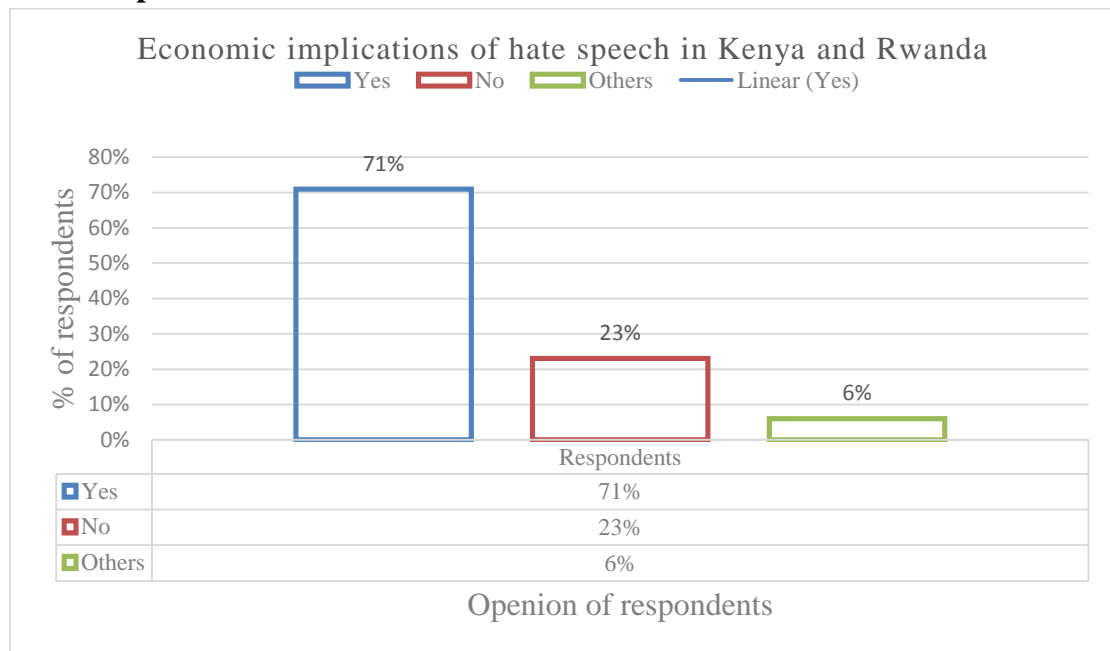
Source: Researcher 2019

4.5 Summary of the Findings

From the studyfindings it can be deduced that, hate speech violates the rights of an individual leading to frustration, aggression, humiliation and psychological or emotional pain.However, according to Names, "hate speech can provoke pain, distress, fear, embarrassment, isolation among other socio-economic and political implications on individuals, groups and society". Kenya and Rwanda have experience cases of hate speech in which the offenders have been arrested, prosecuted and charged. The study established that hate speech played a significant role to the increase of the heinous events that occurred in Kenya and Rwanda. This was done mostly by leaders and politicians who incited communities against each other.

Additionally, hate speech to a certain community can result to ethnic wars and conflict which in turn disrupts peace and stability in the country. It instils fear and

dissuades them to participate in developmental projects in the country. Furthermore, it prevents them from expressing their views and opinions on important national matters thereby strengthening the existing hierarchies in society which makes them hostile and dangerous.Therefore, it's important for countries to enact stringent measures, approaches, laws and policies geared towards combating hate speech in order to enhance sustainability of peaceful co-existence between communities.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.0 Introduction

This chapter presents summary, conclusion and recommendations of the study. The purpose of this research was to analyse the impact of hate speech on national security in Kenya and Rwanda. The studyfindings are presented in line with the study objectives which were to: establish the place of hate speech in the national security discourse, examine the legal and institutional framework on hate speech management in Kenya and Rwanda and analyse the impact of hate speech and national security in Kenya and Rwanda. The summary findings are discussed in the following section.

5.1 Summary of the Findings

The first objective of the study was, "to establish the place of hate speech in the national security discourse". To begin with, research findings forms part of works done by the various stakeholders in trying to find out the place of hate speech in the national security phenomenon andseek a solution to the potential danger, that hate speech also freedom of speech in democracies may have to the security of a nation. It is clear that, little effort has been put in trying to find the solution to the related conflicts rather sources. However, the different actors examined have the potential of changing the narrative from its current negative state to national security. Furthermore, the population is still grappling with the confusion of the freedom of expression and hate speech with further confusion from the elite leadership. The two countries have sufficient examples to design plans of action, but are countries treating the subject as a matter of importance or as another news item giving the reason for its continued threat to national security.

Secondly, the second objective sought to "examine the legal and institutional frameworks on hate speech management that the two subject countries have put in place". The findings obtained show that, both countries have enacted various strategies and policies geared towards combating hate speech which have high success rate if properly executed. However, focus has been on legal measures with some clauses of the law being left open, posing a potential threat of being manipulated. The law tends to be more concentrated on ethnic issues and hate speech, divisive language and derogatory language that have currently moved beyond the confines of ethnic language. The respondents also reported on the selective nature of the law and its misinterpretation by various stake holders. This could be attributed to the nature of the law itself which is open to different interpretations. However, in both Kenya and Rwanda non-governmental actors are reported to have scaled up other measures mainly targeting hate speech.

These strategies are rated to have high effectiveness because they move closer to address the key root cause of hate speech induced conflict. The study findings established that, strategies in Kenya still fail due to lack of evidence and manipulation by the political class. An overall success would come from a blend of legislative and efficient social measures. Consequently, if strong policies are put in place and effectively maintained they can effectively supplement the efforts done by security agents and other relevant authorities and institutions.

Lastly, the study sought to "analysethe impacts of hate speech which can be categorised into social-political and economic are evident in both Kenya and Rwanda". Thefindings obtained show that, hate speech lowers the dignity of

individuals resulting to frustrations, anger, emotional suffering and distress. Additionally, it led to socio-economic and political implications on individuals, groups and society. The findings obtained shows that, the Kenyan post-election violence and Rwandan genocide incidences were exacerbate by spread of hate speech by leaders and politicians in both countries, who incited communities against each other. Furthermore, it has led to discrimination and marginalization of certain communities and groups which has resulted to violence and conflict, mostly due to unequal distribution of resources. This in turn has resulted into massive loss of lives and destruction of properties, political intolerance and unstable economies. In this regard therefore, it's important for countries to enact stringent measures, approaches, laws and policies geared towards combating hate speech in order ensure peaceful co-existence between communities.

5.2 Conclusion

In conclusion therefore, from the findings it is evident that hate speech is a common phenomenon among politicians in Kenya and Rwanda. The incidences in Rwanda and Kenya were hate speech related. Hate speech is therefore a major concern in considering the peace and security of any nation.

The legal and institutional dynamics on hate speech management is a key concern. Considerations on language policies, enactment of laws, and creation of institutions with full mandate to deal with cases of hate speech. It has been noted that the local population is very ignorant on hate speech laws and policies, and that the political class is always taking advantage of the dynamics.

Considering the impacts of hate speech, it is true that it has devastating effects socially, politically and economically to a nation. All these impacts have been witnessed in Kenya and Rwanda ranging from social breakdown, loss of lives and properties, political intolerance, and unstable economies.

5.3 Recommendations

Various recommendations can be made on the study findings.

The study recommendst that current strategies are not sufficiently used to reduce cases of incitement in both Kenya and Rwanda. Majority of the respondents are not aware of the legal measures that the government has put in place, to prevent and punish hate speech in Kenya. However, they noted that the law enforcement institutions were biased in prosecuting hate speech offenders; closely related to this, the respondents also stated that, these institutions are often reluctant to persecute cases of hate speech. Therefore, specific measures should be implemented to guarantee that hate speech crimes are investigated and effectively prosecuted as per the regulations that are in place and not considering political influence.

However, the policies put in place should be accompanied by efforts to improve the capacity of institutions, which have sought non-legal measures as a strategy to change discourse on different social issues. Consequently, media strategies should regulate the content being aired.

Drawing from the study findings, majority of the population still lack the clarity of what does or does not include hate speech. There is yet another problem in distinguishing the between hate speech and freedom of expression. The study

recommends an increase in the awareness through education by state and non-state actors, such as media,by ensuring that any criminal legislation is clearly and narrowly defined to avoid ambiguity and misinterpretation. The law should be followed to prosecute a suspect of hate speech.

There should be consideration of Kenya's international law obligations which condemn and demands prescribing of hate speech by national jurisdictions thus creates binding legal obligations on state parties to relevantthe international law instruments including; ICCPR,ACHPR and ICERD. Moreover, the study recommends that this should not only be done during the electioneering period but should be used to inculcate a culture of peace among the public.

Finally, counties in Kenya should come up with county-specific frameworks, in addition to the existing ones, in order to help in addressing the different threats posed by the misuse of the freedom of expression. Appropriate strategies and policies will help to determine the type of speech and the level of threat it poses to peace, security and integration of nations.

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Appendix I: Survey Questionnaire

This questionnaire is meant to collect information on the implications of hate speech on national security in Kenya and Rwanda. This information is being sought solely for academic purpose and will be treated with strict confidence. Kindly answer the questions by writing a brief statement or ticking the boxes as applicable.

Section A: General and demographic Information

1. What is your nationality…………………………………………………………

2. Which is your County …………………………………………………………......

3. Gender…………………………………………………………………………...

4. Education level………………………………………………………………..

5. What is your age bracket (Tick whichever is appropriate)

18-30 Years [ ]

31-40 Years [ ]

41-50 Years [ ]

Over 51 years [ ]

6. Which language do you understand most…………………………………..

Section B: The hate speech awareness

1. In what ways do you think hate speech has a potential to affect peace and security in Kenya?

2. As a Kenyan you are entitled to freedom of expression. Are you conversant with the provisions and limits to this entitlement?

3. What is your understanding of hate speech?

4. The responsible exercise of freedom of expression contributed to the peaceful election in Kenya in the year 2017 what are your thoughts on this?

5. In the past 2 years, have you heard public/private statements expressing disapproval, hatred or aggression against ethnic, religious, sexual minorities or any other?

If you have answered "yes" to the question above, against whom you have most often heard public statements expressing hatred or aggression?

In which languages would you most often hear public/private statements expressing hatred or aggression in Kenya?

Strategies against the misuse of freedom of expression

1. Do you think the government is doing enough to reduce hate speech induced cases of insecurity? **(Yes/No)**

2. How would you rate the efforts of the civil society in the efforts to reduce hate speech induced cases of insecurity in Kenya? **(Fair/ Average/ Good)**

3. How can the civil society boost its efforts to help the masses strike a balance between Freedoms of speech and hate speech?

1. What strategies do you suggest should be put in place to reduce cases of incitement in Kenya?

Implications of hate speech on national security

1. What are the:

    i.   Social implications of hate speech in Kenya and Rwanda and related

            conflicts?

    ii.   Political implications of hate speech in Kenya and Rwanda?

    iii.   Economic implications of hate speech related conflicts?

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