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The Gender Dimensions of the Violent Electoral Conflict in Kenya: A Case Study of the Kibera Slum in Nairobi

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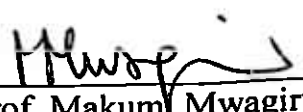
DECLARATION

This project is my original work and has not been submitted for a degree in any other University.

Signature:_____   Date:_30/11/09_____

Ageng'o Caroline

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

Sign: _____   Date:_30/11/09_____

Prof. Makumi Mwagiru

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Dedication

To Mike, Emmanuel and Stephanie

The pillars on which I stand

Chapter 3
The Gender Dimensions of the Electoral Process in Kenya

Chapter 4
Case Study of Kibera

ABBREVIATIONS AND ACRONYMS

AWCFS	African Woman and Child Feature Service
CAUCUS	The Caucus for Women's Leadership
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CIPEV	Commission of Inquiry into the Post Election Violence
DDR	Disarmament, Demobilization and Reintegration
ECK	Electoral Commission of Kenya
FGD	Focus group discussion
FIDA K	The Federation of Women Lawyers in Kenya
FORD	Forum for the Restoration of Democracy
FORD K	Forum for the Restoration of Democracy
FORD P	Forum for the Restoration of Democracy
HBF	Heinrich Boll Foundation
ICC	International Criminal Court
ICJ K	International Commission of Jurists (Kenya Chapter)
ICTR	International Criminal Court for Rwanda
IGAD	Intergovernmental Authority on Development
KEDOF	Kenya Elections Domestic Observers Forum
KDHS	Kenya Demographic and Health Survey
NARA	National Accord and Reconciliation Act, 2008
OB	Occurrence Book
ODM	Orange Democratic Movement
ODM K	Orange Democratic Movement
PNU	Party of National Unity

Abstract

In the violent electoral conflict in Kenya that occurred between 30th December 2007 and 28th February 2008, several groups are distinctly identifiable on the basis of common issues and interests with underlying economic, ethnic and political factors. These groups generally came together under two main political parties to the conflict namely the Orange Democratic Movement (ODM) and the Party of National Unity (PNU) Within the groups were smaller sub groups united around common goals and interests. Despite the numerical strength making up over 52% of the population of Kenya, women as actors in the conflict defied the homogeneity of their gender and did not form a separate sub group distinct from those identified above. Women therefore shared the unique attributes, values and principles of association of the various groups and sub groups that coalesced around common interests, goals and values in the conflict. Despite the diversities and uniformities above, gender concerns have, upon prioritization of issues in the conflict, been engulfed by wider group interests and do not rank highly in the assessment of the extent of homogeneity of a society or part of a society in conflict or as an important factor for consideration in the resolution process.

This main thesis of this paper is that the violent electoral conflict in Kenya affected women and men differently; and that these differences have not been given due regard in the resolution processes. The paper predicates that this failure to reflect the gender dimensions in the conflict resolution processes is a result of issues that predate the violent electoral conflict and are embedded in the structures of the Kenyan society.

Chapter One

Introduction

1.1   Problem Context

Electoral violence was experienced in Kenya in the 1992 and 1997 electoral period. In both instances, the violence occurred before the actual voting day but did not extend beyond the announcement of the election results. In 2007, the voting day was very peaceful. The announcement of the parliamentary and civic election results did not trigger any violence at all. After the announcement of the results of the presidential election, the violence that had been reported before the voting day erupted afresh with unprecedented force. When the violence stopped, over one thousand people had been killed and more than three hundred thousand internally displaced.[1]

In addition more than 300,000 people were displaced and the loss to the economy was estimated at over Kshs 100 billion by early February 2008. The effects of the violent conflict spread beyond the Kenyan borders and particularly affected the transport system that supports the hinterland as far inwards as the Democratic Republic of Congo.[2] At a national level, violence was experienced in several areas across the country and in Nairobi. The Kibera slum in Nairobi was the epicenter of much of the violence that was experienced in the capital city.[3]

As De Reuck argues, in any conflict, all members of each of the opposing sides in a conflict display a level of homogeneity for reason of the common cause or interest that they pursue. However, all the actors in the conflict add onto or subtract from the balance

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[1] M. Mwagiru, "The Water's Edge: Mediation of Violent Electoral Conflict in Kenya," (Nairobi: IDIS, 2008) pp 3-14
[2] International Crisis Group, *Kenya in Crisis, Africa Report No 137*, 21 February 2008 , pp.1-2
[3] Ibid, p 9

of forces, from the resources committed to the struggle and the definition of the issues at stake. It is therefore true that the parties define the issues and the issues define the parties, with unification and division being as much a strategy of the conflict as the results.[4] In the violent electoral conflict that occurred in Kenya between 30th December 2007 and 28th February 2008, several groups are distinctly identifiable on the basis of the common issues and interests with underlying economic, ethnic and political factors. These groups generally came together under two main political parties to the conflict namely the Orange Democratic Movement (ODM) and the Party of National Unity (PNU).[5]

Within these two groups were smaller sub groups united around common goals and interests on the basis of ethnic and political affiliation. Despite the numerical strength constituting over 51% of the population of Kenya, women defied the homogeneity of their gender and did not form a separate sub group distinct from those identified above. Women therefore shared the unique attributes, values and the internal principles of association of the various groups and sub groups that coalesced around common interests, goals and values in the conflict. Yet women are bound by certain common features that affect their lives for the reason only that they are women.[6] Despite the diversities and uniformities above, gender concerns have, upon prioritization of issues in the conflict, been engulfed by wider group interests and do not rank highly in the assessment of the extent of homogeneity of a society or part of a society in conflict, or as an important factor for consideration in the resolution process. In Kenya, the violent electoral conflict

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[4] A. de Reuck, "The Logic of Conflict: Its Origin, Development and Resolution", in M. Banks(ed) *Conflict in World Society: A New Perspective on International Relations* (Sussex: Harvester, 1984), pp 102-103
[5] M.Mwagiru, "The Water's Edge: Mediation of Violent Electoral Conflict in Kenya," *op cit*, pp 3-14
[6] J. Oduol, "Do Customary Issues Have a Role to Play in a Modern Constitution" in Ghirmazion A., Nyabera A., and Kamweru E. (eds) *Perspectives on Gender Discourse: Gender and Constitution Making in Kenya* (Nairobi: Heinrich Boll Foundation,2002) , p. 38

exhibited strong sexual and gender dimensions in its manifestations, in the profile of perpetrators and victims, and the responses by various actors to the conflict during the course of violent hostilities and upon cessation of violence.[7]

This main thesis of this study is that the gender dimensions of the violent electoral conflict were concealed by the political and ethnic dimensions of the structural conflict in the three phases of the electoral process; the pre election, the election and the post election phases. It is further posited that further that the gender dimensions were most visible in the post election phase of the conflict.

Concurring with the argument that conflict does not end with the cessation of violent hostilities and that latent conflict lingers,[8] the paper analyses the gender dimensions of the interface between the three phases of the electoral process; the pre election phase, the election phase and the post election phase from the perspective of overt and latent violence or violent and non violent conflict.[9] It analyzes how the violence affected the women living in the Kibera slums in Nairobi Province in Kenya and makes reference to the report of the Commission of Inquiry into the Post Election Violence (CIPEV), an outcome document of the mediation processes.

1.2   Statement of Research Problem

The overall research problem addressed in this study is that despite the participation of women in the three phases of the electoral process namely the pre election, election and post election phases, existing analyses of the electoral conflict in

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[7] J. Myrum, J.Ward and M. Marsh, *A Rapid Assessment of Gender Based Violence During the Post-Election Violence in Kenya, Interagency* GBV Assessment Report, Jan-Feb 2008, pp I-IV
[8] Recovering from Violent Conflict, *Human Security Now* (New York: 2003) p.57
[9] H-W. Jeong, *Understanding Conflict and Conflict Analysis,* (London: Sage, 2008) pp.14-15

2007 manifest only one aspect of women as victims in the post election phase, without regard to the other roles that they play in the conflict.

Existing literature on the violent electoral conflict in Kenya contains analyses of the apparent issues, causes and consequences of the conflict on the basis of two main broad categorizations, the political or ethnic interactions in the society. Even though these interactions include women and men, the distinctions between the roles of men and women in conflict and the effects of the consequences of the conflict on men and women are not so clear as to go beyond the ethnic and political divides. Women are portrayed as helpless, yet casual and insignificant victims of the conflict experienced during the 2007 electoral period in Kenya especially in the post election phase after the announcement of the presidential election results. One of the outcome documents of the management processes of the conflict has also emphasized the role of women as victims of violence but has added on a perspective of women as the agents of reconciliation.[10] Men on the other hand feature mainly as perpetrators of violence with women as the main targets of their violence. The gender dimensions are reflected in the causes, and are justified as catalysts and support for the continuation of conflict for reason of their long standing and deep seated nature that characterizes them into structural violence. The consequences of the conflict on men and women do also affect entire societies irrespective of the gender of the individual actors in the conflict.

The paper therefore analyses the social relations between men and women in the three phases of the violent electoral conflict in Kenya as against the existing structures in the society that lead to conflict and ultimately structural violence. It analyzes the gender dimensions of the electoral process from the perspective of structural conflict and

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[10] Report of the Commission of Inquiry into the Post Election Violence (CIPEV Report) Chapter 5

undertakes a case study of Kibera to analyze the gender dimensions of the violent electoral conflict in Kenya.

1.3 Objectives of the Research

The objectives of this research are to: -

a) Analyze the structural perspectives of electoral conflict at the state and individual levels;
b) Analyze the gender dimensions in the three phases of the electoral process in Kenya;
c) Analyze the gender dimensions of the violent electoral conflict in Kenya through a case study of the Kibera slums in Nairobi.

1.4 Literature Review

The literature review is undertaken along five themes namely; the manifestations of the gender dimensions of the conflict; the issues in the conflict; the causes of the conflict; the effects or consequences of the conflict; and the responses to the conflict.

Manifestations of the gender dimensions of conflict

Khadiagala and Lyons argue that civil conflicts often create an imbalance between individuals and institutions as it destroys the rules and structures while heightening the role of individuals in the leadership equation.[11] However, they do not stratify the individuals into gender components and neither do they analyze the effects of the imbalance on men and women. Muriithi on the other hand argues for the breakdown of the actors from the state to individuals thus allowing for the issues affecting women to be seen between the victim status in the violations that they suffer in conflict and the role often attributed to them of peace builders. He argues that in so doing, their issues become

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[11] G. Khadiagala and T. Lyons, "The Challenges of Leadership in Post-Conflict Transitions: Lessons from Africa", *Conflict Trends*, Issue 4, 2008, p. 9

entrenched in the agenda of the peace building initiatives as an integral part and not an afterthought.[12]

The issues in conflict

The issues in the Kenyan conflict can be summarized around political, ethnic, economic and cultural themes. At a general level, Tarimo and Manuelo offer a historical analysis of these themes from the perspective of political institutions and the scramble for inadequate resources.[13] Their analysis does not address itself to the gender dimensions of these issues. It is argued that this is a critical gap as there is an all important link between gender relations on the one hand and the political, ethnic, economic and cultural issues that impinge on access to resources, poverty and the resultant conflicts on the other. The absence of the gender dimension is also seen in the analysis of Renner[14] who argues that resource scarcity is an important source of conflict. Renner also does not break down the components of resource scarcity such as water scarcity and how they affect the individual actors including on the basis of their gender.

Derso includes Kenya in his detailed discussion of the concept of scarcity noting the underlying issues of domination and marginalization that pit the members of one constituent group against the other leading to competition, domination and exclusion.[15] In applying Derso's arguments to the violent electoral conflict in Kenya, it stops at the two levels of polarization namely the ethnic and political affiliations without typifying these groups further along gender considerations.

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[12]T. Muriithi, "Indigenous Conflict Resolution in Somaliland", in M.K Juma (ed) *Conflict Prevention, Management and Resolution in Africa: A Reader* (Pretoria: PULP, 2007) pp 287-297

[13] A..Tarimo and P. Manwelo , "African Peacemaking and Governance" (Nairobi: Acton Publishers, 2008) pp 16-31

[14] M. Renner, "State of the World 2005: Redefining Security" in in Mwagiru M. and Oculli O. (eds), *Rethinking Global Security: An African Perspective*? (Nairobi: Heinrich Boll Foundation, 2006) pp 4-8

[15] S. Dersso, "Post Colonial Nation- Building and Ethnic Diversiy in Africa", in G.M.Wachira (ed) *Ethnicity, Human Rights and Constitutionalism in Africa,* (Nairobi: ICJ,2008) , p 6

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Similarly Ongaro and Ambani use the violent electoral conflict as a backdrop against which to gauge the role of constitutionalism in addressing ethnic division in Kenya.[16] Even though they make reference to gender as one of the grounds of discrimination in the Constitution, they aver that it is difficult to exploit other forms of stratification as a basis of analysis as they seem to be overshadowed by the overarching ethnic dimension in the Kenyan conflict of 2007.[17]

Mwagiru[18] also analyses the issues and interests in the Kenyan conflict but does not make any distinction between how these issues relate to men and women separately.

The causes, effects and consequences of conflict

The impact of insecurity on women has been alluded to much in the CIPEV report albeit from the perspective of sexual violence only. The report also does not analyze the gender perspectives of the ethnic, political and economic dimensions of the post election violence and opts rather to discuss this in detail as components that do not exhibit any gender dimensions.[19]

The struggle over scarce resources and the scarcity is discussed as a cause and effect of conflict in the thesis of Fucks[20], who argues that conflicts can be prevented by the management of the existing resources to ensure sustainability and avert the scarcity that leads to conflict.

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[16] B.Ongaro and O. Ambani, "Constitutionalism as a Panacea to Ethnic Divisions in Kenya: a Post 2007 Election Crisis Perspective" in in G.M.Wachira (ed) *Ethnicity, Human Rights and Constitutionalism in Africa,* (Nairobi: ICJ,2008) , pp 24-33
[17] Ibid, p 35
[18] M.Mwagiru, "The Water's Edge: Mediation of Violent Electoral Conflict in Kenya," *op cit,* p 43
[19] Report of the Commission of Inquiry into the Post Election Violence (Waki Report) pp 237-268
[20] R. Fucks, "Security in Our One World" in Mwagiru M. and Oculli O. (eds), *Rethinking Global Security: An African Perspective?* (Nairobi: Heinrich Boll Foundation, 2006) pp 12-14

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In his analysis of the international law applicable with regard to the violent electoral conflict, Bikundo[21] makes no reference whatsoever to rape even though rape is internationally accepted as a crime punishable under the Rome Statute as a crime against humanity. His analysis of the number of persons killed also contains no distinction between men and women in terms of the number of people killed in the violence.

Responses to conflict

In an analysis of the post conflict situations, Bastick, Grimm and Kunst make a case for gender sensitive and inclusive response to conflict if this is to be successful. In the alternative, they aver that failed implementation of strategies in response to conflict could lead to unstable security situations with high levels of violence directed at girls.[22] With regards to the management of conflicts, Khadiagala and Lyons argue that even where leaders have made choices, they may be forced to retain the existing institutions in the management of conflicts that may in the end serve to exacerbate the anomalies that led to the conflicts in the first place. Even though they do not make any references to particular themes in their argument, the importance of gender in the planning for peace can be extrapolated from their analysis of the management of the gender roles in conflict in the same paper.[23] To this extent Khadiagala's argument is supported, that the gender dimensions of post conflict reconstruction can involve the encouragement of policies that compensate for gender disparities in rights, education, resources in power.[24] It is argued that Khadiagala's assertion does not form an integral part of the CIPEV report, as the

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[21] E.Bikundo , "Appraising the Mungiki Violence Through the Prism of the Rule of Law" in J.O.Ambani (Ed) *Judiciary Watch Report: Readings on the Rule of Law in Africa*, (Nairobi: ICJ , 2008) pp233-234

[22] M. Bastick, K. Grimm and R. Kunz, "Sexual Violence in Armed Conflict; Global   Overview and Implications for the Security Sector", (Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2007) , p 188

[23] G. Khadiagala and T. Lyons, "The Challenges of Leadership in Post-Conflict Transitions: Lessons from Africa", *op cit* ,pp 12-13

[24] Ibid, p 13

gender dimensions did not inform the conceptual framework of the terms of reference of the CIPEV; that this then minimizes the effect of the gender analysis in the CIPEV report as it is not integrated into the entire inquiry that was conducted but stands alone as a separate issue from the political, security and ethnic considerations. Yet the gender dimensions should have formed an integral component of the considerations of the inquiry and recommendations of the CIPEV. The paper agrees with Mbote's argument that gender considerations need to be integrated into conflict and peace management in order to tackle the causes and impacts of insecurity in a holistic manner.[25]

1.5   Theoretical Framework

This paper enters the debate through the structural violence theory. The paper argues that the thematic manifestations of the denial of human needs as evidenced in the literature review are embedded in the structures of the Kenyan society. It further argues that the structural violence[26] is closely linked with culture[27] and where it relates to women there are institutional and legal structures that favor such violence within the meaning of Galtung's argument.[28] The resolution of the conflict requires the dismantling of the legal and cultural structures that create the anomalies that lead to conflict. Galtung makes several distinctions in his thesis of structural violence and this paper argues that the women suffered personal violence within the meaning of Galtung's argument that personal violence is meaningful as a threat, a demonstration even where nobody is hit and

[25] P. Mbote, "Gender, Conflict and Regional Security," in M Mwagiru (ed) *African Regional Security in the Age of Globalization* (Nairobi: Heinrich Boll Foundation, 2004) pp 92-93
[26] J. Galtung . "Violence, Peace and Peace Research", *Journal of Peace Research*, Vol 3 (1969)pp168-191
[27] J. Galtung ."Cultural Violence" *Journal of Peace Research*, Vol 27 no 3, 1990 pp 291-305
[28] Ibid

that structural violence is also meaningful as a blueprint; used to threaten people into subordination.[29]

The dichotomies that Galtung[30] makes in explaining structural violence can be inferred in the conflict in Kenya. The women suffered both physical and psychological violence and were both objects and subjects of violence.

1.6 Hypotheses

The paper makes the following hypotheses: -

a) That conflict affects men and women differently, based on the pre-existing relations that are embedded in the structure of the society;

b) That the impact of the gender dimensions of the violent electoral conflict in Kenya substantially reorganized the social relations notwithstanding the political and ethnic dimensions of the conflict.

1.7 Research Methodology

The research will use the case study method of research. This will allow for an in-depth investigation[31] of the differences in the effects of the electoral violence on men and women and how this reflected in CIPEV report. This method will also allow for deeper insights and a better understanding of the research problem.

Research site

Apart from its geographical vastness, the research site was chosen as it served as an epicenter of the hostilities during the conflict. It is also inhabited by some of the key ethnic communities that were the main actors in the conflict. The research will therefore

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[29] J. Galtung . "Violence, Peace and Peace Research", *op cit* .p172
[30] Ibid, pp 167-175
[31] D.Kombo and D. Tromp, *Proposal and Thesis Writing : An Introduction*, (Nairobi: Paulines Publications Africa) , pp 99-110

be conducted in four of the eight local authority wards in Kibera and will cover areas inhabited by the ethnic communities from Central Kenya, Nyanza Western Kenya, Eastern regions of Kenya respectively, including those from the Coast respectively. The political overtones of the conflict also played out in Kibera along the ethnic lines identified.

Population sampling

The research shall adopt the stratified random sampling based on the different ethnic communities that live in Kibera. These ethnic communities form distinct and homogeneous subgroups[32] within the eight local authority wards that make up the vastness of the slum. The research shall then take a simple random sample in each subgroup in the ward. The research shall target four of the eight local authority wards. The women shall be over sampled so as to draw a larger number of females in each subgroup in order to get the perspectives of the women in the gender dimensions of the conflict. Attention shall also be had to ensure that the political and ethnic dimensions are also adequately represented in the sample, in order to address the objectives of the research. The research shall thus provide an equal opportunity to all the residents in the targeted subgroups to form a part of the research.

Respondents

The research shall use key informants drawn from the civil society working in the area and who were involved in the humanitarian efforts that were undertaken in Kibera at the height of the conflict. The research shall also depend on the counseling service providers in the area to assist with the respondent selection, as they assisted those affected by the violence and those still suffering the consequences of the violence. They

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[32] Ibid, p79

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are therefore better predisposed to identify the population affected by the conflict. The population targeted by the research shall be drawn from the Abagusii, Abaluhya, Akamba, Agikuyu and Luo communities and shall cut across all the ages of adulthood. The respondents shall include men and women.

Sources of data

The research shall use primary sources of data that shall ensue from the interviews and the response to the questionnaires. The research shall also rely on secondary data that shall include books, academic journals and other academic writings; media releases and newspaper articles especially those of editorial content.

Research Instruments and Data Collection

The research shall use questionnaires, structured and, semi-structured and unstructured interviews and focus group discussions to collect data from the respondents. All the questionnaires shall take into account the sensitivities of the population as well as the educational levels of the respondents. The content of the questionnaires shall also serve as the interview guides for the structured and unstructured interviews and the focus group discussions.

The questionnaires shall be administered to the respondents, who shall be given time to respond to the questions, after which the questionnaires shall be collected by the researcher. The interviews shall be conducted and the responses recorded. The focus group discussions shall also be recorded to ensure that the information obtained in the course of the discussion is available for analysis.

Data analysis

The data shall be analyzed along the thematic areas outlined in section 1.4 on the basis of the following structure:-

a)   The gender dimensions of the conflict in the pre election phase;

b)   The gender dimensions in the election phase;

c)   The gender dimensions in the post election phase.

Expected challenges

The research is expected to experience the challenge of mistrust of the objectives with a resultant unwillingness to cooperate. To overcome this, the research shall rely on the support of organizations that have been working in Kibera over a long period of time and therefore have the trust of the communities. To preempt the challenge of availability of these organizations, they shall be contacted in advance and contact maintained to ensure that they respect the appointments made.

The other challenge is on the veracity of the data and this cannot be fully overcome. It can only be mitigated by making the contact as participatory as possible.

1.8   Scope and Limitations of the Research

The period covered in the research runs from the pre-election phase and more specifically the official campaign period from 27th November 2007 to 26th December 2007. It extends to 28th February 2008, when the peace agreement was signed. The research is also based on an outcome document that has been finalized so far namely, the Report of the Commission of Inquiry into the Post Election Violence (CIPEV). The research does not cover the mediation process even though the CIPEV report was a direct outcome of the mediation process.

The research is restricted to the Kibera slums for reason of the ethnic and political diversities represented in the area. The research does not extend to the other areas in Kenya that manifested similar characteristics for reasons of time and resource limitations.

1.9   Outline

Chapter One   **Introduction to the Study**

Chapter Two   **A Structural Perspective of Electoral Conflicts**

Chapter Three   **The Gender Dimensions of the Electoral Process in Kenya**

Chapter Four   **A Case study of Kibera**

Chapter Five   **Conclusion**

Bibliography

Annexes

Chapter 2

A Structural Perspective of Electoral Conflicts

2.1 Introduction

Chapter One noted that conflict in Kenya following the disputed presidential elections reveals a phenomenon that has consistently played out during the electoral processes in Kenya and indeed across Africa. The timing and intensity of the violence experienced between 30th December 2007 and 28th February 2008 was however unprecedented in Kenya.

This chapter places electoral conflict within the context of the theory of structural conflict. It analyzes the structural perspective of electoral conflict within three phases of the electoral process; the pre-election phase; the election phase and the post election phase. It makes the case that structural conflict manifests in all the three phases and that the conflict is influenced by several distinct factors at the state, citizenry and individual levels.

2.2 Structural conflict in electoral processes

It is stated at the outset that the electoral process falls within the ambit of the meaning of conflict as an incompatibility of goals between two or more parties[1], as the parties in the electoral process each have a distinct reason for taking part in the process often at variance with each other.

The incompatibility of goals between the various parties play out in the electoral process that are an embodiment of the role of bringing about change in the social structure and institutions, the distribution of resources and in the relationships between

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[1] M.Mwagiru, " Conflict in Africa: Theory, Processes and Institutions of Management", (Nairobi: CCR 2006)p.3

the conflicting parties.[2] Political conflicts involve different groups and are characterized by a high level of organization that can also alter the context of hitherto social conflicts into political conflicts.[3]

The electoral process is an embodiment of the idea of structural conflict, which presupposes an un-peaceful situation that exists between the dichotomies of peace and war. It is however evident that structural conflict that at times ends in violence, structural violence, is about correcting the situations of extreme deprivation of one or several communities at the expense of another or others. The link between political affiliation, ethnic belonging and access to resources is also evident and is a result of longstanding interactions of these three dimensions.

Structural conflict incorporates elements of the human security, which in turn embraces a broader meaning of security, separate from the traditional view, which considers security as a function that is limited to the state; where states are the only actors in international relations who then exercise the security function in times of peace and war.[4] The realist view of the state as the primary actor limits the opportunity to examine matters such as the composition and constraints of the state and the constituency it represents ,and could lead to an erroneous interpretation that the state is secure; yet the reality could be that individuals and communities suffer and die from famine , disease , genocide, ethnic cleansing, assault , discrimination in the distribution of state resources, amongst other factors, which are after all, the components of the human needs approach.[5]

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[2] A. de Reuck, "The Logic of Conflict: Its Origin, Development and Resolution" , in M. Banks (ed) *Conflict in World Society: A New Perspective on International Relations*, (Sussex: Harvester, 1984) p.99
[3] M. Mwagiru, "Conflict in Africa: Theory, Processes and Institutions of Management," *op cit*, p.3
[4] C.H. Ofuho , "Security Concerns in the Horn of Africa" , in M.Mwagiru (ed) *African Regional Security in the Age of Globalisation* (Nairobi: Heinrich Boll Foundation, 2004) pp 7-9
[5] L. Chweya, "Emerging Dimensions of Security in the IGAD Region" *op cit*, pp 31-48

National security however remains the preserve of the state but is necessary for the attainment of human security. Human security implies protection against, or safety from, a future of risk and deprivation, injury or death and encompasses the important elements of predictability and control.[6] The notion of human security entails the creation of systems that allow for survival, dignity and livelihood, and which are also closely linked to development.[7]

In many African countries, insecurity has to an extent been linked to bad governance and lack of democratic practice. Democracy is therefore a means of conflict resolution and an opportunity for addressing divergent views through various means including through elections. Electoral violence occurs where the rights of groups are not protected nor economic interests fulfilled, and may lead to the breaking away to assert and claim self determination. Good governance leads to peace and stability, which are prerequisites for sustainable development.[8] In multiethnic societies, ethnic bias is evident in the implementation of development policies that should in principle create sustainable improvement in the quality of life of all people. Thinking around development has evolved from planning and economic discourse to the current thinking of development as a process of expanding the real freedoms that people enjoyed. These freedoms include political freedoms, economic facilities, social opportunities, transparency and protective security.[9]

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[6] O.Sana, "Good Governance as a Building Block towards Improved Human Security in the Horn of Africa," in M. Mwagiru (ed) *Human Security: Setting the Agenda for the Horn of Africa*, (Nairobi: African Peace Forum, 2008) pp 35-36

[7] R. Mudida, "The Security-Development Nexus: A Structural Violence and Human Needs Approach" *op cit*, p 12

[8] O.Sana,"Good Governance as a Building Block towards Improved Human Security in the Horn of Africa," *op cit*,pp36-37

[9] R. Mudida, "The Security-Development Nexus: A Structural Violence and Human Needs Approach" *op cit* p14

2.3   Phases of the electoral process

Diagram 1   Phases of the electoral process
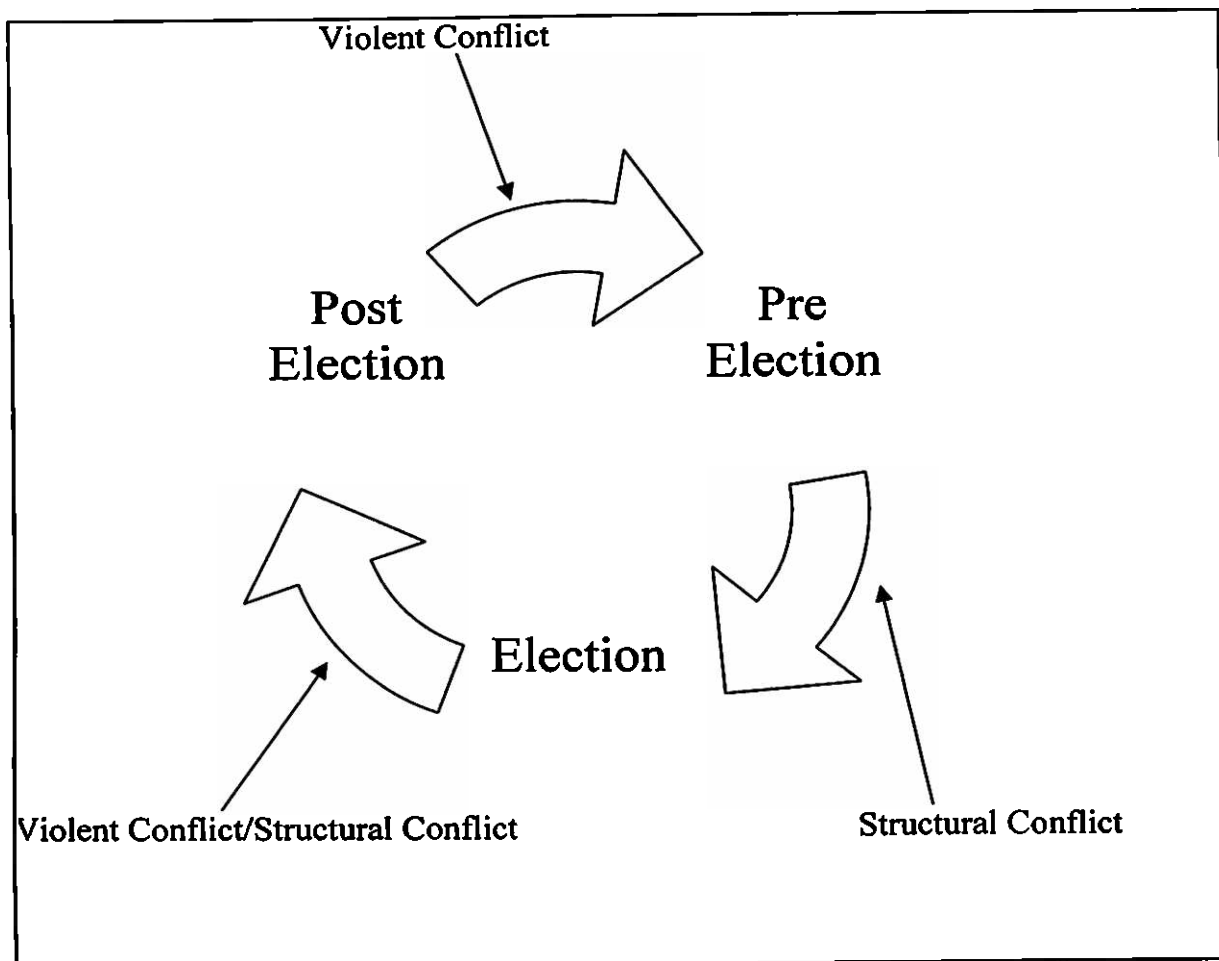
Electoral processes occur in phases that often overlap from one electoral cycle to the next. For instance, the post-electoral phase of the previous cycle overlaps with the pre-election phase of the next cycle.

Elections and the conflicts that they entail are important elements in democratic processes, even though elections alone are not enough to guarantee democratic governance. As fundamental components of democracy, regular free and fair elections[10] are also by nature contests between opposing parties and are therefore about

[10] C. Santiso and A. Loada, "Explaining the Unexpected: Electoral Reform and Democratic Governance in Burkina Faso", *The Journal of Modern African Studies*, Vol. 41, No. 3 (Sep., 2003),pp 404-408

incompatibilities of goals that give rise to conflict.[11] Elections are a means to embark on

personal and national plans at the individual level and a means practicing democracy and

governance.[12]

In electoral processes, there is a general interaction between various dimensions

of conflict including the political, ethnic and economic and involves the diverse interests

of the citizenry, the political parties, and the government. In certain instances, politics

and ethnicity become channels through which the disparities in resource allocation,

ownership and distribution became discernible. In such instances, access to resources is

closely linked to national leadership that is in turn attainable primarily through political

interaction. Conversely, there are strong indications that access to, and control of

resources is also very closely connected to the ethnic affiliation of the individuals in

leadership and those aspiring to leadership. The link is therefore twofold: in the first

instance, political parties have strong ethnic characteristics such that when one political

party is in power, invariably a group or groups of ethnic groups are deemed to be in

power, often to the exclusion of the other ethnic groups. At the second level, political

power often entails access to, and control of state resources that is then distributed, or

perceived to be distributed along ethnic lines, and narrow interests that are also evident in

the membership of the parties. The opposing parties, also defined by narrowly defined

affiliations, then coalesce to remove those in power, so that they in turn could also gain

access to the state resources that are denied them in the tenure of the opposing groups.[13]

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[11] M.Mwagiru, " Elections and Electoral Reforms in Post-Conflict Societies", *National Conference on Electoral Reform: Setting the Electoral Reform Agenda in Kenya*, Nairobi, 12-14 August 2009

[12] S. Mozaffar, J.R. Scarritt, G.Galaich "Electoral Institutions, Ethnopolitical Cleavages, and Party Systems in Africa's Emerging Democracies" *The American Political Science Review*, Vol. 97, No. 3 (Aug., 2003), p 380

[13] M. Mwagiru, "The Water's Edge: Mediation of the Violent Electoral Conflict in Kenya", (Nairobi: IDIS,2008) pp9-10

2.4 The Pre-election phase

This phase comprises the period before the election phase and incorporates elements of the post election phase of the previous electoral cycle. It may stretch as far back as to include the post election phase of the previous electoral cycle. The dimensions of this phase are therefore not standard and vary with the context in which the elections are held.

In this phase the institutional and constitutional arrangements take centre stage as preparations take place in readiness for the election phase. Electoral institutions are embedded in wider social contexts, raising the possibility that similar institutions may not produce similar outcomes in different contexts.[14]

The constitutional options come under scrutiny and are interrogated through various processes that include campaigns, voter registration, civic education, nomination processes in political parties, composition of the electoral bodies and the formal declaration of elections. The ability of the constitution to allow for disputes in these processes is put to the test as against the history of the institutional environment. Where there is no information on the processes, the prospect of violence is heightened as discontent develops amongst the citizenry, caused by the mistrust of the intentions of the incumbent leadership. This is particularly so where the channels for redress in case of a

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[14] S. Mozaffar, J.R. Scarritt, G.Galaich , "Electoral Institutions, Ethnopolitical Cleavages, and Party Systems in Africa's Emerging Democracies" *op cit*, p 380

dispute are not effective as was the case in Madagascar during the electoral process that started with s first round of elections in December 2001.[15]

Still from the institutional perspective, the pre- election phase entails the dissolution of parliament, also at the prerogative of the incumbent leader, even though this prerogative is for the most part anchored on the constitution. The appointments to election management bodies may entail an element of cronyism and are often undertaken by the incumbent leader with little in between to allow the opposing parties from challenging the structures.[16] In such instances, the electoral process is an important, yet anomalous channel of access to political power with the opposing party seeking to move power and resources from the party in power and the latter seeking to retain power and block the access of the other party. This is done through centralized power that is often exercised in a manner that does not allow for the development of real development of the opposing groups as was the case in Burkina Faso when the incumbent Blaise Compaore overthrew the then President Thomas Sankara.[17] In certain instances, it the contest might pit one group against a coalition of groups on the basis of ethnic, political or other affiliation.[18] According to Galtung, where there is monopolization of resources by a group or class, or where resources are used for other purposes, the actual level of realization falls below the potential level of realization, and violence is present in the system. He defines structural violence as existing in those conditions where human beings are influenced so that their actual somatic and mental realizations are below their

[15] R.R. Marcus and P. Razafindrakoto, "Participation and the Poverty of Electoral Democracy in Madagascar ", *Africa Spectrum*, Vol. 38, No. 1 (2003), pp. 27-48

[16] Ibid

[17] C.Santiso and A. Loada , "Explaining the Unexpected: Electoral Reform and Democratic Governance in Burkina Faso" *op cit*, p399

[18] R.R. Marcus and P. Razafindrakoto, "Participation and the Poverty of Electoral Democracy in Madagascar ", *op cit*, (2003), p34

potential realizations.[19] The gap between these two levels of realization is the centerpiece of structural violence.

The constitution and the institutions of the state also govern the other components of this phase including voter registration, civic education and the practical logistical arrangements that must be undertaken ahead of the electoral phase. If the constitutional and statutory foundations, upon which these activities are undertaken are flawed, these arrangements become embedded in the structures of governance in order to allow one group to retain power at the expense of the other groups in the electoral contest. In Burkina Faso, voter registration by the electoral commission and the interior ministry was considered to be flawed and as lacking credibility thereby posing a critical challenge to electoral participation by the electorate a critical challenge.[20]

The citizens also participate in the pre-election phase of the electoral process through other activities such civic education and membership of political parties. The political parties are made up of the electorate who subscribe to the ideals espoused by the leadership of the parties. It is common to find ardent support for the political contestants from the primary perspective of ensuring that the interests of the electorate are not completely ignored if somebody else's leaders are in power, even where "their" leaders do little in terms of changing their status as individuals through improvement in their standard of living. The prospect of elections therefore exacerbates communal, religious, and regional conflicts and lead to political violence, often initiated by incumbent governments. Political parties therefore play a coordinating role between the candidates

[19] J. Galtung, "Violence, Peace and Peace Research", *Journal of Peace Research*, Vol 3 (1969) pp 167-169
[20] C.Santiso and A. Loada , "Explaining the Unexpected: Electoral Reform and Democratic Governance in Burkina Faso" *op cit,* p415

seeking elections and voters seeking the gains of winning.[21] This happens against the background of the existing structural anomalies. On the contrary, the existence of a structure where all the citizens have fair access to resources, supported by an enabling constitutional and institutional framework would alter the character of the pre election phase considerably and possibly confine the conflict to the contestants in the electoral process.

In the pre-election phase, the development policies come under scrutiny, and gaps in development are ascribed biased political meanings. Divergences emerge when ethnic groups, unified by social, political and cultural considerations,[22] coalesce early in the electoral process so as to safeguard their interests or develop new interests and could lead to ethnic conflict.[23] Threats to human security at the society level are often root causes of protracted internal conflict.[24] These may entail systematic violations of human rights and elections become a means of defending class and other interests to the detriment of opposing groups.[25] Both electoral institutions and ethno-political cleavages shape the structure of party systems, but not reflexively, which on their part only engage with the electorate from a strategic and contingent view point.[26]

This raises questions as to whether those living in situations of structural violence are not able to feel or realize the inherent structural violence in which their lives are

[21] G. Williams, "Democracy as Idea and Democracy as Process in Africa Source", *The Journal of African American History*, Vol. 88, No. 4, Africa and Globalization (Autumn, 2003), pp. 339-360

[22] M.H.Ross , "The Relevance of Culture for the Study of Political Psychology and Ethnic Conflict" *Political Psychology*, Vol. 18, No. 2, Special Issue: Culture and Cross-Cultural Dimensions of Political Psychology (Jun., 1997), p300

[23] R. Mudida, "The Security-Development Nexus: A Structural Violence and Human Needs Approach", *op cit*, p 12

[24] J.G.Cockell, "Conceptualising Peacebuiding:Human Security and Sustainable Peace" in M. Pugh (ed) *Regeneration of War Torn Societies* (London: Macmillan ,2000) p21

[25] J.Petras, "Neglected Dimensions of Violence" *Economic and Political Weekly*, Vol. 23, No. 27 (Jul. 2, 1988), p. 1367

[26] S. Mozaffar, J.R. Scarritt, G.Galaich "Electoral Institutions, Ethnopolitical Cleavages, and Party Systems in Africa's Emerging Democracies" *op cit*, p 381

embedded.[27] In the conflict cycle, where such structural violence is not attended to, it leads to violent conflict, structural violence, even though in the earlier stages of structural conflict, overt violence is absent; but the structural factors have virtually the same compelling control over behavior as the overt threat or use of force.[28] In the Kenyan context the inequalities in resource allocation had existed for a long time and the election of 2007 presented the opportunity to change the *status quo*. When this was not possible, violence was almost inevitable.[29]

Structural conflict is further premised on the notion that there are no subjective actors in a conflict that is instigated by an anomalous structure. The argument is supported that structural violence is a stage in the development and evolution of the conflict, which emerges as behavioral violence with time as there is no basis for the contention that the actors to the conflict do not have the capacity to recognize and analyze the situations of conflict that they are going through.[30]

In Kenya, the political congregation along ethnic lines and by extension regional belonging in the pre- election phase of the 2007 general election was representative of the anomalous nature of social development in the country, traceable to pre-independence Kenya, where the British exploited ethnic identities to facilitate the achievement of colonial goals. This was through administrative structures that were organized along ethnic lines and the collaboration between the colonialists and individual tribal leaders aimed at strengthening ethnic identities at the expense of multiethnic liaisons, but more

[27] M. Mwagiru , Conflict in Africa: Theory, Processes and Institutions of Management , *op cit* , pp 26-28
[28] A.J.R. Groom, Paradigms in Conflict: The Strategist, the Conflict Researcher and the Peace Researcher , in J. Burton and F Dukes (eds) *Conflict: Readings in Management and Resolution* , (London: Macmillan, 1990) pp 91-95
[29] M.Mwagiru, The Water's Edge: Mediation of Violent Electoral Conflict in Kenya, *op cit*, pp10-13
[30] M.Mwagiru , Conflict in Africa: Theory, Processes and Institutions of Management , *op cit*, pp 28-30

importantly, to the exclusion of other rationalities.[31] The structural conflict manifested in domination, exploitation, injustice and widespread underdevelopment, despite the existence of institutions founded on principles of democracy and equitable development.[32]

This phase also includes the setting out of the modalities of voting including the training and deployment of election officials, printing of ballot papers and the protection of the ballot papers from attaining the public domain before the appropriate time. The manipulation of these processes ensures that democracy happens through an electoral process so that those in power do not expose themselves to the political risks that free competitive elections entail.[33] The anomalies in the structures of the society make it particularly easy for this to happen. There is therefore a plethora of examples from across the world on the manipulation of state resources in the pre-election phase to ensure that the incumbent wins the election. In Algeria[34] as in the Gambia[35], the dominance of parties of the state ensure political repression as a bid to exclude unfriendly competitors through expulsions from the country or even outlawing of political parties. During the campaign period the media is used unfairly to favor the incumbent. All this happens against the existing constitutional and institutional framework discussed above.

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[31] Ibid, p 83

[32] Ibid, p18

[33] C.Santiso and A. Loada , "Explaining the Unexpected: Electoral Reform and Democratic Governance in Burkina Faso" op cit, Vol. 41, No. 3 (Sep., 2003), p401

[34] Y. Bouandel, "Political Parties and the Transition from Authoritarianism: The Case of Algeria", The Journal of Modern African Studies, Vol. 41, No. 1 (Mar., 2003), p5

[35] A. Schedler, "The Nested Game of Democratization by Elections" International Political Science Review / Revue internationale de science politique, Vol. 23, No. 1, Electoral Governance and Democratization. Gouvernance électorale et démocratisation (Jan., 2002), p105

2.5   The election phase

This phase entails several events that include actual polling or casting of ballots, the organization of the electorate within and around the polling stations, the security arrangements of the ballot papers before and after voting, vote tallying, declaration of poll results and the official acknowledgement of the results by the electoral commission and other institutions including the judiciary.

Happening against the background of the pre-election phase, the main test is whether the elections were conducted freely and fairly. Apart from the dominance and display of power in the pre election phase, the election phase also exhibits the intention of the incumbent to exclude the opposing parties. The electorate becomes an easy target of the incumbent who employ several tactics to ensure the non participation of the electorate.

In Bangladesh, violence replaces participation in actual polling so that the electorate is instigated to engage in violent interaction across the divide of the competition. Violence is also meted out on the electorate, all in a bid to ensure that they do not take part in the poll. At a different level, the state engages in spontaneous vigilance, in order to intimidate the electorate from participating and to ensure "hegemonic control of functions and representational authorities at local government institutions by the bureaucratic state against control of state instruments."[36]

Electoral fraud has also been used to keep the electorate away from the polling stations in several countries from Haiti to Zimbabwe. Names are deleted from the voters list ahead of the poll. The voters have no recourse to the law, despite its existence and

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[36] Z. R.Hussain "Landscape of Violence: Local Elections and Political Culture in Bangladesh" *Economic and Political Weekly*, Vol. 25, No. 47 (Nov. 24, 1990), pp. 2622-2624

have to comply when turned away from the polling stations.[37] In Ghana as in several

other countries, bribery is also rampant during the election phase and this is encouraged

by deeply embedded practices of political corruption, often condoned by the state.[38]

There is also interference in the administrative duties of the officials at the polling

stations.[39]

The state also uses information as a means of manipulating voters. Voters do not

receive adequate civic education in the pre election phase and have therefore little or no

knowledge at all on how to participate effectively in the polling process, as was the case

in the elections that catapulted incumbent Hugo Chavez to power in Venezuela.[40] This

leads to spoilt votes, casting votes for the wrong candidate depending on the information

on the ballot paper. Where there are several elections going on during the same period,

there are instances where the voters cast the ballots in the wrong boxes as they are not

aware of the different coding or identification methods for the presidential, parliamentary

or local authority elections.

Venezuela also depicted an interesting dynamic of low voter turnout when it

removed the compulsory voting rule. Other dynamics have included the manipulation of

the legal voting age to conform with the indicators of the strength of the ruling party so as

to increase or decrease at will, the number of voters eligible to participate in the voting

process.[41]

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[37] A. Schedler, "The Nested Game of Democratization by Elections" *op cit.*, p105
[38] V. Le Vine, "Corruption in Ghana", *Transition*, No. 47 (1975), p53
[39] A. Schedler, "The Nested Game of Democratization by Elections" *op cit,*
[40] J.E. Molina and C. B Pérez, "Radical Change at the Ballot Box: Causes and Consequences of Electoral Behavior in Venezuela's 2000 Elections" , *Latin American Politics and Society*, Vol. 46, No. 1 (Spring, 2004), pp. 116-134
[41] Ibid

In the election phase physical violence is meted out to vulnerable persons including the old and the disabled as they take part in the polling process. This violence is in the form of verbal and physical abuse and is aimed at discouraging the participation of the opposing sides in the polling so as to raise the chances of winning the election. Other institutional omissions such as distance to the polling stations and exposure to the elements due to failure to plan for such eventualities as extreme weather conditions.

Vote counting , tallying and announcement of the poll results also make up the election phase. Where the anomalies are present in the structure at the pre election phase, they are carried through the election phase to the threshold of the post election phase. In the course of vote tallying, the institutional arrangements are most visible especially where shortcomings exist. These could be in the form of the lack of sufficient lighting, making it possible for one party to take out ballots and ballot boxes from the tallying venues without being detected. This phenomenon is aided by the laxity of the security personnel assigned such polling stations. The announcement of the poll results could also be the subject of state manipulation where the poll officials do not act in an independent manner and are subject to control by the state.

2.6   The Post Election Phase

This phase overlaps with the final phase of the election phase. Where there are several tiers of elections, one set of results may precede the other(s) by considerable amounts of time that could run into days. The phase also includes the concession by the losing party, official announcement of results and the institutional rearrangements.

Elections are a means of institutional and legislative reform. In Burkina Faso, at the time of the election in May 2002, the government had been in power for twelve years.

The elections in Burkina Faso lend credence to the assertion that new political regimes offer promise for change and consensual modes of governance. The Burkina experience also confirms that the reform following election is carefully planned but in such a manner so as not to undermine the foundations of power of the incumbent. The elections are therefore a tactical necessity.[42]

The starting-point of the post election phase has been described as follows:-

"A government calling an election the opposition denounces as flawed. In continuation, (1) the incumbent decides whether to respond to the criticism voiced by its adversaries by either attending to or neglecting their complaints; (2) the opposition evaluates the response it gets from the government and decides whether to participate or boycott the election; (3) the incumbent chooses whether to run a relatively clean election or to commit fraud on election day; (4) if the ruling party is declared victorious, the opposition decides whether to accept or protest the result; and (5) the cycle comes to full circle with incumbents deciding to repress eventual opposition protests or respond by opening up to reform."[43]

The transitional character of an electoral process is evident in the post election phase. The results of the elections constitute power resources with renegotiation of power relations taking place while the structural conflict subsists. A situation of strategic interdependence ensues with the incumbent controlling the electoral competitiveness and the opposition the electoral legitimacy.[44] Election losers are coopted so that the incumbent can maintain the grip on state resources.[45] There is however some respite for the opposition and their portion of the electorate as the opposition has access hitherto unavailable, to state resources as well. Zimbabwe and Kenya with their power sharing arrangements are two cases in point.

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[42] C.Santiso and A. Loada , "Explaining the Unexpected: Electoral Reform and Democratic Governance in Burkina Faso" *op cit*, pp396 -416
[43] A. Schedler, "The Nested Game of Democratization by Elections" *op cit*,p112
[44] Ibid, p110
[45] Z. R.Hussain "Landscape of Violence: Local Elections and Political Culture in Bangladesh" *op cit*, pp. 2622-2624

The reform processes could also happen as a result of pressure on the government[46] to change the anomalous structures that led to electoral conflict. Conflicts between party leaders and elected officials also occur at the post conflict phase and these conflicts often extend to the electorate and the government institutions. The focus is on whether or not to change the structure, with the answer depending on who benefits from the structural change. This phase also embraces the management processes of the electoral conflict and the emergence and return to peaceful relations in the society.[47] In this phase the results of the electoral processes are implemented and this in turn leads to the start of the pre election phase of the next electoral cycle.

[46] J.E. Molina and C. B Pérez, "Radical Change at the Ballot Box: Causes and Consequences of Electoral Behavior in Venezuela's 2000 Elections" , *op cit*,p 108
[47] M.Mwagiru, " Elections and Electoral Reforms in Post-Conflict Societies", *op cit*

Chapter 3

The Gender Dimensions of the Electoral Process in Kenya

3.1 Introduction

Chapter Two analyzed the structural perspective of the three phases of the electoral process ; the pre election, the election and the post election phases. It noted the overlap between the phases, and that structural conflict in the pre election phase breaks out into structural violence in the election and post election phases. In Kenya, the announcement of the presidential election results was the trigger to the structural violence.

This chapter discusses the gender dimensions of the electoral process. It first makes the link between gender and conflict. It then analyzes the gender dimensions of the different phases of the electoral process in Kenya.

3.2 Relationship between gender and conflict

In gender dimensions of electoral conflicts encompass the socially constructed gender relations in the society that connote the socially constructed designation of women and men, their roles in the culture-specific context and the relationship between the two sexes.[1] In this chapter, reference to gender includes the state of being male or female, distinguishable by the physical, biological or sexual characteristics by which all members of the society are identifiable.[2] The causality of gender considerations in the differentiation of individual and societal interactions is evident in the cultural and political relations. At the individual level, the differentiations are very pronounced on the

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[1] S. Nakaya, "Women and Gender Equality in Peacebuilding: Somalia and Mozambique", in T. Keating and A. Knight (eds) *Building Sustainable Peace* (Tokyo: UN University Press, 2004) p.146

[2] P. Kameri-Mbote, "Gender, Conflict and Regional Security" in M. Mwagiru (ed) *African Regional Security in the Age of Globalization*, (Nairobi: Heinrich Boll Foundation, 2004) p.83

basis of opportunities and constraints based on sex category and the resultant consequences.[3]

The impact of the conflict on men and women entails much more than the general notion that women are primary "victims" and "peacemakers". Generally, men are considered as primary actors in conflict whereas women assume a peripheral role.[4] The prevailing gender relations in the society result in differences between the experiences of men and women in violent conflict, their coping strategies and how the gender relations are reconfigured as result of conflict.[5]

The social roles of men and women have been different in all known human societies. The differentiation has been primarily on the basis of division of labour that has predisposed men to access and control of valuable resources in their societies, which has in turn made it difficult for men and women to share power, privilege and status on the basis of equality.[6] The relevance of gender analysis in electoral conflict is premised on the fact that elections are about access and exercise of power at the different levels that the elections happen, whether at the national or local authority levels.

3.3 Gender dimensions of the electoral process in Kenya

The gender dimensions of conflict are based on the human security approach. Gender considerations underlie basic needs that are intrinsic to biological and physical survival, self-esteem and autonomy, and are considered universal and primordial.

[3] B.J. Risman, "Gender as a Social Structure: Theory Wrestling with Activism Source," *Gender and Society*, Vol. 18, No. 4 (Aug, 2004), pp. 432-434

[4] P. Kameri -Mbote , "Gender, Conflict and Regional Security" *op cit.* p 85-89

[5] S. Baden, "Post-conflict Mozambique: Women's special situation, Population Issues and Gender Perspectives," *Report of a Consultancy for the Action Programme on Skills and Entrepreneurship in Countries Emerging From Armed Conflict* , (Brighton: IDS , 1997) , p 1

[6] M Marini, "Sex and Gender: What Do We Know?" , *Sociological Forum*, Vol 5 No 1(Mar.1990) p 96

Conflict threatens the very existence of people under circumstances of oppression, discrimination and isolation.[7]

Men and women participate differently in electoral processes where they also interact differently between and across the genders. These differences are influenced by several other factors including the laws and institutions that govern elections.

The experiences of men and women in the electoral process are not isolated but are rooted in the gender relations in the society that exist outside the electoral process. An analysis of the gender dimensions of electoral conflict involves a discussion of the power relations around the patterns of women's and men's access to control over resources, authority and social legitimacy.[8] Resources are an element of human security that is understood in terms of human development, which is a process of widening people's choices in a broader and more integrated sense to include freedom from fear and want. Human security has significant inherent gender concerns that are presented largely in a gender-neutral way except in the aspects of personal health and security, where women's vulnerability is highlighted.[9] The electoral process is one of the means by which the power relations are gauged in society.

3.4   Pre election phase

When the multiparty electoral system was introduced in Kenya, ethnic clashes broke out especially in three provinces, Coast, Rift Valley and Western, during the 1992 and 1997 general elections, leading to loss of life and property and an influx of internally

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[7] H. W Jeong, "Understanding Conflict and Conflict Analysis" (London: Sage,2008) pp28-29. See also Chapter 2 , section 2.2
[8] S. Ssali, "Human Security, Conflict and Women in the Horn of Africa," in M. Mwagiru (ed) *Human Security: Setting the Agenda for the Horn of Africa* (Nairobi: Africa Peace Forum, 2008) p102 . See also note 4 above.
[9] Ibid, pp.103-104.

displaced persons.[10] The root causes of these clashes had not been addressed by the 2007 elections, and even though they constituted the post election phase of the previous conflict, they also formed the pre election phase of the electoral conflict in 2007.[11]

In this phase, gender dimensions are discernible in the institutional and legislative frameworks. The actions of individuals within these two contexts are influenced by the structural arrangements in the society, some of which are deep seated and mirror the post election phase of the previous electoral cycle. An example is seen in gender stereotyping where men are seen as aggressors and women as victims associated with peace[12]. These stereotypes suggest clear distinctions between the roles of men and women in the society outside the electoral cycles.

The Constitution of Kenya guarantees freedom from discrimination on the basis of sex or any other basis.[13] The electoral law as enshrined in the Constitution[14] and other statutes does not prevent any man or woman from participating in the electoral process, and to that extent allows for equality between men and women in the political arena of elections. The principle of equality espoused is not absolute as the Constitution contains some claw-back clauses that make exceptions to its application. These exceptions are on issues of personal law such as marriage, divorce and property.[15] In the pre election phase the application of the exceptions allows for discrimination on the basis of gender. This is because social interaction and relations between men and women extends to the electoral process. As such, a woman seeking election must first get clearance from the existing

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[10]L. Chweya, "Emerging Dimensions of Security in the IGAD Region" in M. Mwagiru (ed) *African Regional Security in the Age of Globalization*, (Nairobi: Heinrich Boll Foundation, 2004) p41
[11] See Chapter 2, Section 2.3
[12] S.Ssali, "Human Security, Conflict and Women in the Horn of Africa" , *op cit*, p104
[13] The Constitution of Kenya, Chapter 5
[14] Ibid Section 41
[15] Ibid, section 82(4),(5) ,(6), (8) and (9)

leadership structures in the community. These structures are for the most part male dominated and the woman has to get the endorsement of the male family members and the wider community. The same does not always hold true for men, who endure a lighter level of scrutiny than women in their quest to vie for electoral posts. This is because women's social and political interactions are pegged to that of men, particularly husbands.[16] According to Mrs. Deborah Okumu, the Executive Director of the Caucus for Women's Leadership, female aspirants face the challenge of choosing where to stand as they have to convince the members of the communities of their marriage that they were fit enough to lead. She cited the example of the Member of Parliament for Marakwet, Linah Chebii Kilimo who had to make several visits to her marital home and her home of birth, seeking to convince the leadership in both communities to allow her to stand for elections in her marital home. On the one hand the community leadership argued that on marriage she had effectively become a stranger in her home of birth. On the other hand, they argued that she was a stranger in her marital home, as she was not born there. In both instances, they stated that a stranger couldn't lead a community.[17]

Overcoming the hurdle of family and societal endorsement to present oneself for nomination leads directly to another hurdle with strong gender dimensions: the party nominations. Political parties are an integral part of the institutional and legislative framework in the electoral process in Kenya as there are no provisions for participation without the backing of a political party. Indeed the Political Parties Act 2007 interprets a political party to mean:-

> "any association or organization of persons which has for its objects or purposes or one or more of its objects or purposes the proposing or supporting of

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[16] S.Ssali, "Human Security, Conflict and Women in the Horn of Africa", *op cit*, p107
[17] Interviews with Mrs. Okumu on 5th June, 2009 and 14th October 2009

candidates for national or local authority elections, with a view to forming or influencing the formation of the Government of Kenya or any local authority within Kenya."[18]

The nominations on the party ticket must therefore be weighed against the possibility of winning the particular seat. In many instances, women are sacrificed at the altar of political power play[19] despite the fact that women are the majority in Kenya at 51% of the population according to the 2003 Kenya Demographic and Health Survey (KDHS).[20] According to one female Member of Parliament from the ODM party, women are often requested to step down in favor of male colleagues in the party, on the promise of a nomination to parliament after elections. Her sentiments are echoed by another female party member who, in 2007 gave up the quest for party nomination to a man, on the persuasion of the party leadership that promised her a top government post once the party got into power.[21] Generally, political parties have women's wings and gender desks but these are separate from the mainstream political activity and do not influence the party nomination processes substantially. For this reason, political parties rarely nominate women for elective positions.[22]

In Kenya however, the law prohibits the creation of parties on the basis of gender[23] and women must therefore contend with the structures in their political parties, even where these do not provide a level playing field or allow for fair competition between them and the male party members.

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[18] Political Parties Act , 2007, section 2
[19] B. Schaffner, "Priming Gender: Campaigning on Women's Issues in U.S. Senate Elections," *American Journal of Political Science*, Vol. 49, No. 4 (Oct., 2005), p 804
[20] www.knbs.go.ke Accessed on 14th October 2009
[21] Interviews with nominated MP as well as party member who requested anonymity when informed that this was to be part of an MA research project. They were both interviewed on 14th May, 2009.
[22] B. Murungi, "Women and Citizenship Rights," in A. Ghirmazion, A. Nyabera and E. Kamweru,(eds) *Perspectives on Gender Discourse: Gender and Constitution Making in Kenya* ,(Nairobi : HBF, 2002) p61
[23] Political Parties Act , *op cit*, section 14. Even though this Act was passed in 2008 after the last general elections, the principle was applicable in the last electoral cycle, albeit tacitly.

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The women who survive the party nominations have to then contend with the challenges around the campaign period. In the campaign stage, there are gender stereotypes around the personal roles of the women. As already noted, men are seen as primary actors in conflict whereas women are seen as victims and peacemakers.[24] A general perception shared by men and women is that the campaign trail is unsafe for the personal security of women. For this reason, the society does not encourage the active participation of women in campaigns. This view is not restricted to the participants, but also embraces the electorate.[25]

At an institutional level, several institutions play the role of ensuring the safety of the contestants and the electorate. These include the police department and the Electoral Commission of Kenya(ECK). The judiciary also plays a key role as the cases arising in this phase invariably follow the process of the law. The judicial system is governed by laws that are based on the relationships in the society, which include the differences between men and women.[26]

The ECK played a key role in the three phases of managing the electoral process in order to promote free and fair elections. In the pre election phase the management role includes civic and voter education, voter registration and training of the electoral officials. These activities happen under the prevailing gender relations in the society that influence the participation of the voters in the process. Participation in the voter education and registration activities is to a great extent influenced by the social roles of men and women. An example with regards to voter education is where the men and women have to choose between taking part in voter education activities and continuing

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[24] P. Kameri-Mbote, "Gender, Conflict and Regional Security", *op cit* , p85
[25] Interviews with nominated MP , *op cit*
[26] Constitution of Kenya , Section 82(4)

with their day to day activities. As regards voter education, women shy away from attending sessions on voter education for the reasons of conflicting gender roles.[27] In Chapter Four, the extent to which the gender roles affect voter registration is investigated further.

In the voter targeting strategies in the campaigns, a lot of emphasis is on how the candidates hope to correct the preexisting structural anomalies in the society.[28] These anomalies reflect the gender interactions in the society that are also evident during the campaign. Electoral campaigns involve large sums of money and are also a time of displaying societal leadership roles. Men are constructed as being superior to women in society and often given greater capacity than women to mobilize a variety of material resources and assume cultural roles of leadership.[29] This capacity is reflected in various terms including control of land that rests with the men, especially where the land is communal or family land.[30] A woman would face strong resistance if she wanted to encumber the family land in order to raise money for the elections. On the contrary, men face less resistance and are able to use family and communal land as security to raise money for elections.[31]

Voters regard female and male candidates differently and gender biases can affect the electoral prospects of women candidates. The gender stereotypes in the society affect the substantive issues that female candidates emphasize in their campaigns.[32]

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[27] Interview on 5th June 2009 with Evelyn Opondo, Programme Officer, FIDA Kenya. FIDA Kenya undertook voter education activities in 2002 and 2007 elections. See also note no 12 above.
[28] See Chapter 2 , section 2.2 and note 8 above
[29] S.Ssali, "Human Security, Conflict and Women in the Horn of Africa" , *op cit*, p105
[30] Ibid
[31] Note 21, supra
[32] P. Herrnson, J. Lay and A Stokes, "Women Running "as Women": Candidate Gender, Campaign Issues, and Voter-Targeting Strategies," *The Journal of Politics*, Vol. 65, No. 1 (Feb., 2003), pp 245-246

In its analysis of the pre election phase, the Report of the Commission of Inquiry into the Post Election Violence (the CIPEV report) does not address the gender dimensions of this phase. Even though it makes a strong case for structural conflict in this phase, it does not examine the differences between the experiences of men and women in the conflict. Further, it covers the institutionalization of violence in the electoral process after the 1992 general election, without analyzing the impacts of such conflict on the gender relations in the specific communities that it refers to. There is also no gender analysis of the violence, whether preplanned or spontaneous[33] and how this then affected the social relations.

The mandate of the CIPEV was to investigate the facts and circumstances surrounding the violence, the conduct of state security agencies in their handling of it, and to make recommendations concerning these and other matters[34]. The mandate did not include a gender analysis .According to Mr. George Kegoro, who was the Secretary to the CIPEV, the decision to make a gender analysis was arrived at following consultations with civil society organizations that had worked with women victims of violence in the electoral process.[35]

The pre election phase also covers the logistical arrangements by the ECK in preparation for the election phase. These include the printing of ballots, the designation of the polling stations, recruitment and training of the polling agents and transportation of the ballot boxes to the polling stations. These arrangements are governed by the electoral laws and implemented by the electoral institutions.

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[33] Report of the Commission of Inquiry into the Post Election Violence, CIPEV Report, pp 20-35 and 76-79
[34] Ibid, pp1-7
[35] Ibid, pp2-7

3.5   Election phase

This phase draws from the gender relations and activities in the pre election phase. As with the pre election phase, the election phase happens within a legal and institutional framework with clear gender dimensions. In 2007, the election phase marked the end of a tension packed pre election phase that was characterized by structural conflict that had existed over time.[36] There is no legal provision that bars either men or women from participating, or even limits the level of their participation in the election phase. In the 2007 elections, the voting day is reported to have been violence free but structural conflict was evident.[37]

As in the pre election phase, the ECK played a key role in the electoral phase, which included the polling, tallying and announcement of the results of the election. The ECK played the dual role of observing and monitoring the elections, as managers of the electoral process, and supervising the independent election observers[38] who included the Kenya Elections Domestic Observers Forum (KEDOF), the East African Community Observer Mission and the Commonwealth Observer Mission. According to Mrs. Jane Onyango, the immediate former Executive Director of FIDA Kenya, the mandate of a majority of election observers focuses on detecting electoral malpractices as a benchmark for free and fair elections[39], and is for the most part gender blind.[40] This mandate is influenced by the nature of the pre-existing and prevailing gender relations during the

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[36] See discussion on structural conflict in Chapter 2, section 2.2
[37] M.Mwagiru., "The Water's Edge: Mediation of the Violent Electoral Conflict in Kenya," (Nairobi: African Peace Forum, 2008) p 1
[38] The Constitution of Kenya, op cit, section 41
[39] Telephone interview with Mrs Jane Onyango in Nairobi on 14th October 2009. FIDA Kenya monitored the 2002 and 2007 general elections. In the latter case, Mrs. Onyango was the Executive Director of FIDA Kenya.
[40] S. Ssali, "Human Security, Conflict and Women in the Horn of Africa", op cit, p 102

election phase. It is argued that the objectivity of foreign monitors and observers would be enhanced if they had prior knowledge of the gender relations in the society.

In the election phase, the ECK takes precautionary measures to protect the integrity of the polling process as part of the institutional management role of ensuring that the polls are free and fair through the coordination of logistics.[41] At another institutional level, the police assume a protection role ahead of, and during the polling, which includes providing protection to the electorate, the ECK personnel managing the elections at the time of polling and the election observers. This protection is subject to the gender relations existing in the pre election phase that place women at an inferior position to men. The gender relations include how women are viewed in times of peace. If women are viewed as objects to be used then the conflict phase provides the space to act out a pre existing prejudice. In the same vein, the roles assigned to men are carried over to the conflict phase.[42]

During vote counting and tallying, there were long waiting periods between the close of voting and the announcement of the presidential result.[43] The delay in tallying meant that polling officials, party agents, the candidates and the electorate had to be away from their homes for periods of up to three days before the presidential results were announced. These activities are governed by the existing norms of social interaction with regard to the safety of men and women.[44]

The disputes arising from the elections are also addressed by the ECK in this phase before the votes cast are tabulated and tallied ahead of the announcement of the

[41] M.Mwagiru,(ed) "The Water's Edge: Mediation of the Violent Electoral Conflict in Kenya," *op cit*, pp4-5
[42] S.Ssali, "Human Security, Conflict and Women in the Horn of Africa" , *op cit*, p102
[43] M.Mwagiru (ed) "The Water's Edge: Mediation of the Violent Electoral Conflict in Kenya," *op cit*, p4
[44] Interview with Ms Evelyne Opondo, note 27 supra

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outcome of the election. These disputes are also addressed by the judicial system in accordance with the Election Offences Act.[45]

In the CIPEV report the gender dimensions of the election phase are not adequately covered. The report does not contain any information on the measures taken in the election phase to ensure the safety of the vulnerable across the gender divide. The vulnerable include elderly men and women, nursing mothers, and men and women with disabilities.

The CIPEV report records without sufficiently assessing the strong links between political and ethnic affiliation to ascertain the extent to which the gender relations affected the actual voting patterns especially in instances of cross ethnic marriage or business relations.

The collation, tallying and announcement of the election results crosses the threshold into the post election phase.

3.6   Post election phase

The violent electoral conflict was triggered by the announcement of the presidential election results in the post election phase. This phase also encompassed the institution of the ECK as the holder and publisher of the electoral result, the police as keepers of law and order, and the judiciary as a key actor in the settlement of disputes arising from the publication of the results and the institutional arrangements including power sharing arrangements.[46]

Even though violent conflict occurred in the post election phase, it was based on the structural conflict that existed in the pre election phase. The movement from the

[45] Election Offences Act, Cap 66 Laws of Kenya, Part II
[46] S. Nakaya, "Women and Gender Equality in Peacebuilding: Somalia and Mozambique", op cit, p147

structural conflict to structural violence is attributable to the electoral system that allows politicians to stoke hatred against other ethnic communities in their campaigns. It is also attributable to an electoral structure that allows for one party to overwhelmingly win a majority of seats in civic and parliamentary elections and lose out on the presidential elections.[47] As noted in chapter two, the electoral contest is about access to and control of state resources within the context of human security. The gender dimensions in this contest follow pre existing social relations.[48] These are analyzed in terms of the violence meted out on individuals and the role of the electoral institutions.

In 2007, the collation, tallying and announcement of the results were highly contested resulting in violence. Six weeks after the announcement of the results, over eight hundred people had been killed and over 300,000 people internally displaced.[49] The CIPEV report notes that a total of 1,133 people died as a consequence of the post-election violence.[50] This data is not analyzed in gender terms.

In the post election phase, several women were raped and men sodomized. Sexual violence was used as a weapon of war, where women are to be humiliated and conquered[51]. Even though women suffer the violations, sexual violence is used to subdue men and to humiliate them.[52] Sexual violence in the post election phase has also been described as a by-product of the collapse of social order in Kenya and a tool to terrorize

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[47] M.Mwagiru, "The Water's Edge:Mediation of Violent Electoral Conflict in Kenya," op cit, p 1
[48] See Chapter 2, section 2.2. See also note number 8
[49] M.Mwagiru, "The Water's Edge: Mediation of Violent Electoral Conflict in Kenya, op cit, p 3
[50] CIPEV report, ibid , pp 345-346
[51] S.Ssali, "Human Security, Conflict and Women in the Horn of Africa" , op cit, p102
[52] Ibid, pp 112-113

individuals and families and precipitate their expulsion from the communities in which they live.[53]

Sexual violence impacts the social dimensions of the gender roles that are affected or recreated as a result of the conflict, at the personal level and the national level. The cost of treatment of one woman victim of rape weighs heavily on the health facilities when multiplied by the number of women victims of rape. This has consequences for the health budgetary allocation of the country. Where these women bear children as a result, the cost of raising these children is transferred to the state including the indirect costs of the psychological trauma that may be manifested through dysfunctional and delinquent behavior of these children owing to the circumstances surrounding their birth. Where the women die as a result of the rapes, the impact on the immediate families, communities and the family has economic and psychological connotations. In the final analysis there is the danger of societal retaliation where the children born of or affected by such violations bottle up their frustrations which are easily triggered into renewed violence at a later date.[54]

The other aspect to be considered is in the arena of violent hostilities and the role of combatants. In most instances it is men who take up arms and take part in the attack of the oppressor. Indeed, men are recruited to take part as frontline combatants.[55] In the Kenyan conflict, newspapers and television stations carried pictures of stone- throwing men, and women and children fleeing from the violence. This phenomenon is grounded on the various factors that include laws relating to security, censorship laws and

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[53] J.Myrum, J.Ward. and M. Marsh., *A Rapid Assessment of Gender Based Violence During the Post-Election Violence in Kenya*, Interagency GBV Assessment Report, Jan- Feb 2008, p 4
[54] Ibid , pp 19-51
[55] P.Kameri-.Mbote, "Gender, Conflict and Regional Security," *op cit*, p 92.

restrictions in movement and expression that draw from the lower status of women in the Kenyan society.[56]

When men go to the frontlines, the women are left to take care of the households, often without the benefit of the training or induction needed to enable them effectively take up the responsibilities of the men. Where the men are fatally wounded in the conflict, the above impact is long-term and quickly snowballs to in turn impact the wider community and ultimately the state.[57] This leads to a secondary level of structural conflict. In the Kenyan conflict, the non resolved tribal clashes of 1992 and 1997 have been attributed to the 2007 conflict as communities seek to avenge the wrong occasioned on their people. An example is given of a 5 year old in 1992 whose family is victim of the clashes; such a child grows up blaming a certain group of people for the wrong occasioned to his family and therefore needed very little instigation to pick up arms to seek revenge for the wrongs done to his people.[58]

The violent conflict happened against an existing legal background at the national and international levels. Rape is a crime against humanity according to the 1998 Rome Statute establishing the International Criminal Court, a principle that has been applied in the in the *Akayesu*[59] case. Under Article 7 of the Statute:-

"Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other forms of sexual violence of comparable gravity", are crimes against humanity 'when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack."[60]

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[56] Ibid
[57] P.Kameri-.Mbote, "Gender, Conflict and Regional Security," *op cit*, p 92.
[58] M. Mwagiru, "The Water's Edge: Mediation of Violent Electoral Conflict in Kenya," *op cit*, p 11
[59] Prosecutor vs. Akayesu, *Case No. ICTR 96-4-T*, Judgment (Sept. 2, 1998). In this case, Akayesu was found guilty even though he had not himself committed the actual physical acts of rape. He was found to have encouraged others to commit the offence or rape.
[60] Statute Establishing the International Criminal Court

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At the national level, the Constitution and several other statutes including the Sexual Offences Act, 2006 and the Penal Code[61] protect the citizens against the violations experienced in the post election phase. The application of the laws is not effective due to some institutional weaknesses. In the investigations of the sexual offences committed in the post election period, a woman who was gang-raped by eight men was told by a Nairobi police officer after she reported to the police station that if she did not know who raped her, " she should 'just' go to hospital and not to the police."[62]

The CIPEV report also contains reports of omissions by police officers. In one case, the report notes:-

> "According to a married woman living in Mathare, who was able to identify some of her attackers by name, she went to Pangani Police Station and the police "*told me that they do not want to listen to cases about rape. If it is about robbery I should report and I reported and they gave me an OB number.*" Similarly a married female resident of Kibera who had been gang raped, went to report at the Kilimani Police Station, she was told "*to choose between the two, either the issue of the house being burned or being raped.*"
> Although the woman had identified the men who gang raped her and looted her property; the police at the Pangani Police Station released the perpetrators without offering her an explanation. The police only said that "*this [was] about politics and that [she] should leave.*"[63]

It is argued that the response of the police officers was a reflection of the prevailing gender relations where the rape of a woman was not considered as meriting the intervention of the law, despite the existence of a judicial system supported by laws that would punish the perpetrators. According to women in Burnt Forest, the primary responsibility of a woman in such a situation was to her husband and children and

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[61] Chapter 63, Laws of Kenya
[62] J.Myrum, J.Ward. and M. Marsh., *A Rapid Assessment of Gender Based Violence During the Post-Election Violence in Kenya*, op cit, p23
[63] CIPEV report, op cit, pp 255-256

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[61] Chapter 63, Laws of Kenya
[62] J.Myrum, J.Ward. and M. Marsh., *A Rapid Assessment of Gender Based Violence During the Post-Election Violence in Kenya*, op cit, p23
[63] CIPEV report, op cit, pp 255-256

reporting rape was not an option.[64] A representative of a local non-governmental organization also noted that women would not report rape because their husbands would leave them while the community would laugh at them.[65]

The response of the police could also be because certain police officers were also perpetrators of sexual violence who failed to provide protection as they were supposed to. The actions of the police officers support the earlier assertion that rape and sexual violence are a means of humiliating women and subduing men.[66] The CIPEV report contains several cases of violations by security officers. In one case it is reported:-

> "In some cases, the security agents attacked individuals, including teenagers, during flight. According to the statement of a 17 years old girl from Eldoret currently living in a children's home in Nakuru, she was attacked by 7 Administrative Police Officers, who gang raped her. At the time of the attack, she was running away from her sister's house which had been attacked by some raiders during the post election violence."[67]

With regards to the internally displaced persons (IDPs), the report notes that most of the IDPs were women and children, yet provides no statistical proof of this assertion and no justification ascribed to this phenomenon.[68] The IDP camps exposed the women to further risk of sexual violations and victimization linked to camp design and services including sanitation and water availability.[69]

Regarding the institutional framework, the PNU party asked ODM to challenge the announcement of the presidential results through the court system under the belief that the electoral conflict was institutionalized. ODM was reluctant to do so as the

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[64] J.Myrum, J.Ward. and M. Marsh., *A Rapid Assessment of Gender Based Violence During the Post-Election Violence in Kenya, op cit,* p6

[65] Ibid, p5
[66] S.Ssali, "Human Security, Conflict and Women in the Horn of Africa" , *op cit*, p102 and pp 112-113
[67] CIPEV report , *op cit,* p 256

[68] Ibid
[69] J.Myrum, J.Ward. and M. Marsh., *A Rapid Assessment of Gender Based Violence During the Post-Election Violence in Kenya. op cit ,* p 11

47

electoral conflict was non- institutionalized in their view and hence the quick shift from structural conflict to structural violence.[70] The response of the individuals to the sexual violations despite the existence of a legal framework is also an indicator of the shift from the structural conflict to structural violence.[71]

The first two outcome documents of the mediation process, the National Accord and Reconciliation Act 2008 and the Agreement on the Principles of Partnership of the Coalition Government were written in a gender neutral format without taking into consideration the gender perspectives of the electoral conflict.

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[70] M. Mwagiru, "The Water's Edge: Mediation of Violent Electoral Conflict in Kenya," *op cit*, pp 3-4
[71] Supra , notes 52-53

Chapter Four

The Gender Dimensions of the Electoral Conflict: a Case Study of Kibera

4.1 Introduction

Chapter Three analyzed the gender dimensions of the electoral conflict. It discussed the link between gender and conflict and made reference to the structural dimensions of the conflict that were analyzed in Chapter Two. This chapter details the case study undertaken in the Kibera slum in Nairobi and analyses the structural and gender dimensions of the electoral violence in the study site.

The case study method of research was used and the population sampled through the stratified random sampling technique.[1] Primary data was collected through personal interviews and focus group discussions. The research also relied on secondary sources of data including books, academic journals and writings and reports. The different data collection methods took into account the sensitivities of the population and the literacy levels of the respondents.

4.2 Challenges experienced in data collection in Kibera[2]

One of the assumptions made in the research proposal that there would be mistrust from the respondents held true. This was overcome by the involvement of local community leaders in the organization of the focus group discussions. They were able to explain the objectives of the research to the respondents ahead of the group discussions. Another challenge was the unwillingness of the respondents to address the pre election and election phase with the majority wanting to speak only about the post election phase. To overcome this, the focus group discussions were guided to include the other two

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[1] See Chapter One, section 1.7 on the research methodology
[2] See Chapter 1, Section 1.5

phases of the conflict. The focus group discussions also addressed the other assumption on the veracity of the data as it enabled participation of a big number of respondents who were able to corroborate the experiences of each other.

A majority of the respondents opted not to respond to the questionnaires and this method of data collection was discontinued as unsuitable.

The other challenge was the low participation of men in the research. The respondents identified explained that the men were away at work and that the women were either divorced or widowed. Another justification was that women organized in the form of women groups and these were easily accessible. In the groups with male membership, their participation was low as most men were reported by the mobilisers as not being willing to take part in the discussions or respond to the questions.

4.3   Primary data

The data was collected between March 2009 and September 2009. A total of 109 respondents were reached. Of these 23 were men. 91 respondents participated in the focus group discussions of which 21 were men; 17 personal interviews were conducted for 5 community mobilizers, 4 victims, 3 representatives of non governmental organizations and 2 members of parliament. One respondent of the personal interviews was a man, even though an equal number of men and women had been targeted. Of the 30 questionnaires distributed, only 4 were returned completed and one respondent was a man.

Four focus group discussions were held with ninety one respondents. A total of one hundred and five respondents were reached.

The research questions were on the social roles of men and women in the three phases of the electoral process; the reasons for taking part in the electoral process and respondents' views of the conflict. The research questions also assessed the extent to which the respondents were aware of any anomalies in resource allocation at the national and individual levels. The research questions aimed at gauging whether or not structural conflict existed in the research site. It also allowed for the assessment of the gender dimensions of the structural conflict.

Table 1   Respondents on the basis of gender
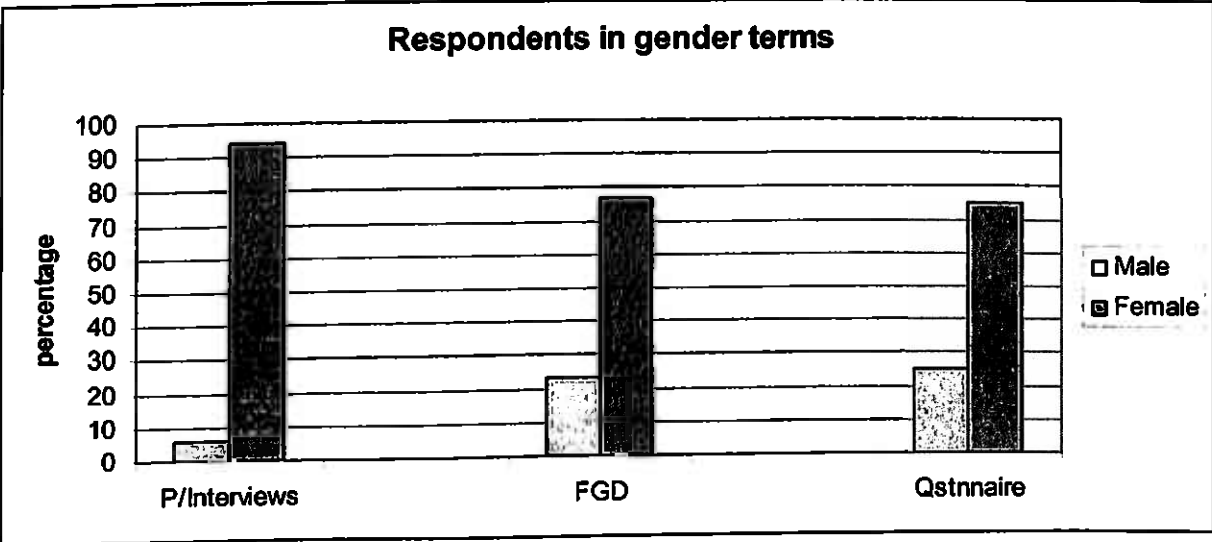
The main reason given for the low levels of male participation was that the men were away from the slum at work. Comparatively, some of the female respondents were also at work but were within the slum area. They were able to leave their businesses for short periods to take part in the focus group discussions. More women were interviewed than men because the interviews took place at the work places of the women, who did not need to move from their work activities.

Table 2   Respondents by location

Respondents by location
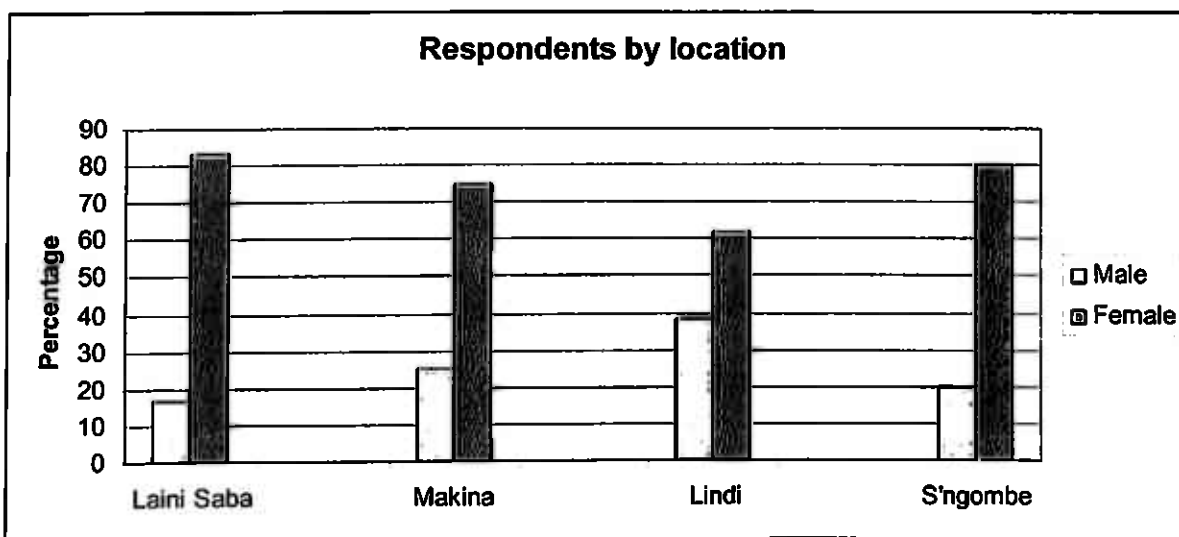
Key
S'ngombe -Sarang'ombe

Four focus group discussions were held with Olukhongo Women Group on 14th June 2009, Imani Welfare Group on 1st July 2009, Slum Girl Hidden Talent on 7th August 2009, and Timkinda Women Group on 15th August 2009. Personal interviews were held with two victims of the electoral violence. Of the four wards sampled, Laini Saba had the highest number of participants in the focus group discussions. The research did not establish the reason for this from the discussion with the Slum Girl Hidden Talent.

4.4   Pre election phase

In this phase, a high percentage of the male and female respondents voter registration. The level of participation of the female respondents in the campaigns was lower than that of men. A higher percentage of female respondents could not make a distinction between voter education and campaigns as compared to the male respondents. The percentage of men who participated in voter education was higher that that of women.

Table 3   Participation in the pre election phase by respondents in the four local authority ward sampled in Kibera
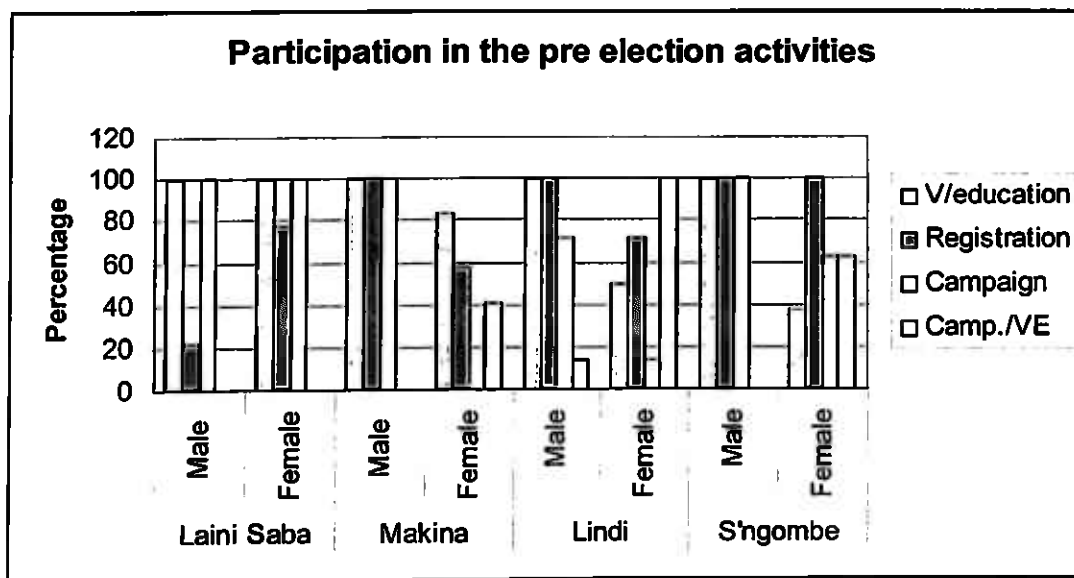
Participation in the pre election activities

The Slum Girl Hidden Talent was formed in October 2008 and is made up of twenty nine women who are all single mothers. The group has nine male members, five of who are related to some of the female members. A total of 38 respondents participated in the focus group discussion with this group. Of these, 22 were of voting age in 2007 and had registered as voters. This number was made up of 5 men and 17 women. In the pre election phase some of the group members had been in school and were living with their families. They noted that they had been looking forward to a change of regime as the candidates all made promises about the economic and social changes that they would make in the slum. The respondents all noted that they were hoping for an improvement in their standard of living. This group was reluctant to talk about the campaign and voter education aspects of this phase, their primary focus being on the post election period and the violence that they suffered.

A second focus group discussion was held in Makina with the Olukhongo Women Group, a welfare association with membership drawn mainly from the Luhya

community. The other members were from the Luo and Kisii communities. The group reported that it started as a women only group but has over the years admitted men. It has a total membership of 50. Their main activities are to provide support to one another in times of hardship. The group is also a forum for social networking.

Of the 15 members of the group who participated in the focus group discussion only three were men. The men all reported having taken part in the voter education activities in Kibera and in other constituencies; Malava and Dagoretti. The women were not certain about what exactly constitutes voter education as distinct from campaigns. They were of the view that campaign activities included voter education, something that the men did not agree with. The men understood voter education as formal trainings and campaigns as informal gatherings. The women noted that they did not take part in the campaigns as this would have interfered with their daily income generation activities. The men agreed that voter education interferes with their activities but noted that they made time for participation in campaign rallies as these were important networking opportunities. The men and women noted that the campaign rallies in Kibera were not safe for women in the last electoral cycle as there was a lot of tension in the pre election period with a constant threat of violence erupting. In the group, the 3 men registered as voters compared to 7 of the 12 women.

Tim Kinda Women Group and Imani Group from Lindi and Sarang'ombe respectively, presented similar responses to the Olukhongo Women Group on their role in the pre election phase. Tim Kinda Women Group had 21 respondents; 7 men and 14 women. All the men registered as voters compared to 10 of the 19 women.

The discussion with the Imani Women Group involved 10 members of whom 8 were women. All the respondents from the Imani Women Group registered as voters. The two groups reported that in the pre election phase they had coexisted peacefully with the other tribes. The groups noted that the tribes all lived under the same economic conditions in the slum. Both groups noted that they had hoped that the elections would bring about a change in leadership that would amount to an improvement in their standard of living.

4.5 Election phase

The voter education and registration activities in the pre election phase did not result in a corresponding participation by the respondents in the activities in the election phase. This divergence was restricted to the actual polling. There was only one respondent who participated in the vote tallying and tabulation. The respondents were not aware of any restrictions to the participation of either gender in the election phase.

Table 4   Participation in the election phase
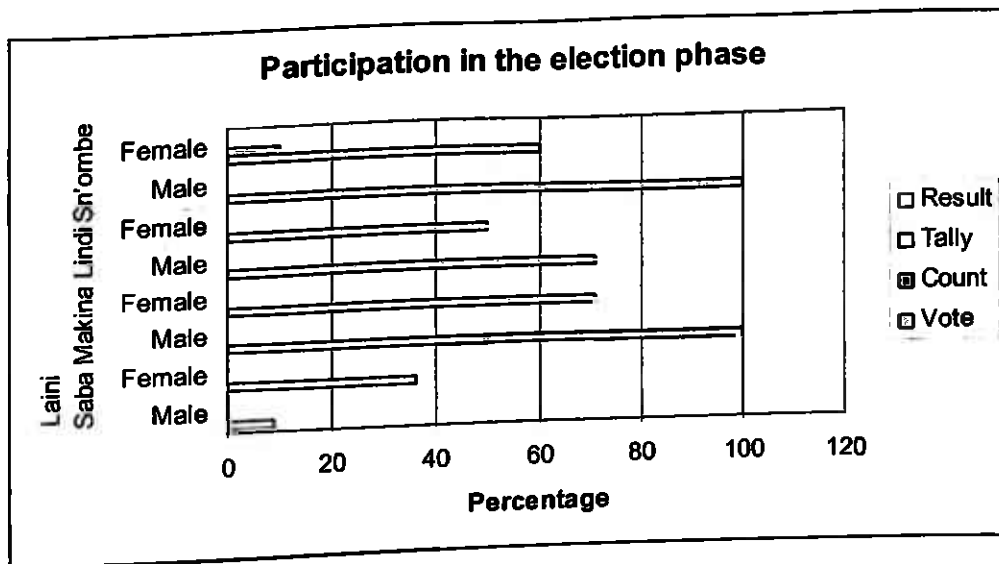
From the Slum Girl Hidden Talent, only 10 out of the 38 group members reported having voted in the last election, even though all the 38 respondents participated in the campaigns. This is despite the fact that 22 of the 38 had registered as voters. 2 of the 9 men voted as compared to 8 of the 29 women respondents.
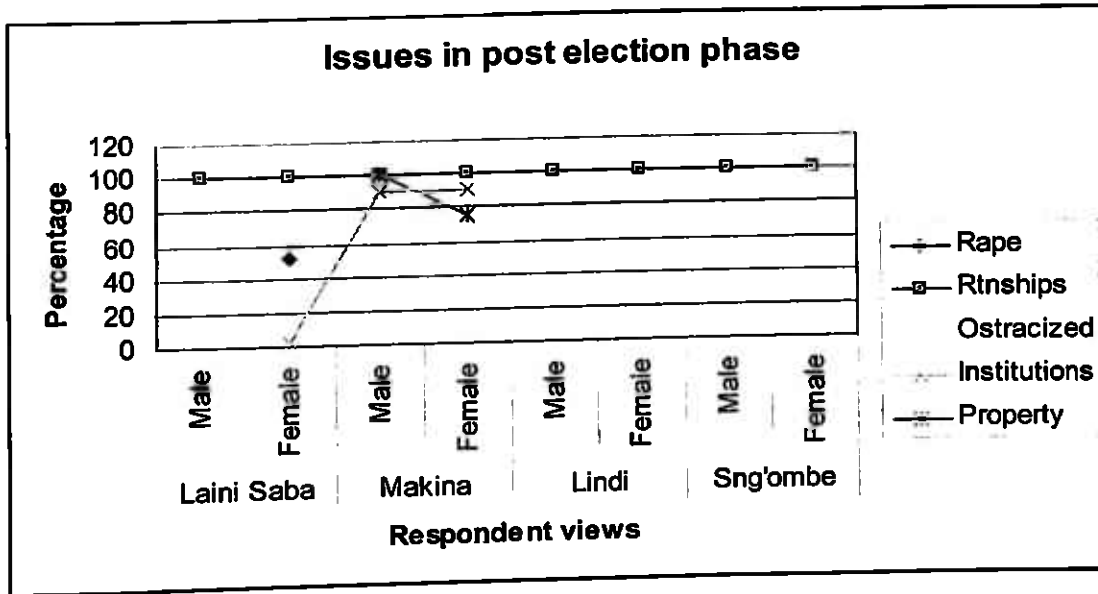
In the Olukhongo Women's Group, the Tim Kinda Women Group and Imani Women Group, all the male respondents registered and voted in the election. Compared to the 100% participation of the male respondents in the three groups, the female participation in the actual polling was at 71%, 50% and 60% respectively in the three groups.

4.6   Post election phase

In the discussion on this phase, the respondents focused on the consequences of violence. They noted that the social roles and relationships that existed in the pre election and election phases were changed by the violence. Where women were killed or injured as a result of the violence, there was a corresponding change in the role of men; where men were killed or suffered injuries, the women took on roles that differed from those in the pre election and election phases. They also noted responses of the victims to the violence which was similar between the men and the women.

Table 5   Issues in the post election phase

Issues in post election phase

Legend:
- —+— Rape
- —□— Rtnships
- Ostracized
- Institutions
- —=— Property

X-axis: Respondent views — Laini Saba, Makina, Lindi, Sng'ombe (Male / Female for each)

Y-axis: Percentage (0–120)

In the Slum Girl Hidden Talent, 20 female group members bore children from the rapes that occurred after the election results were announced. The respondents stated that the cordial relations that existed between the various communities in the slum changed after the violence in the post election phase. Ten of the female members were chased away from their homes after the violence and were at the time of the focus group discussion living as single women. None of the male respondents were ostracized by their families.

The women and girls stated that they were not able to get assistance from the police even where they reported the rapes. Of the 20 girls from this group who were raped in the post election violence, only one reported that she was able to get assistance from the police. Five of the ladies reported that they were raped by security personnel. One respondent in the personal interview noted that she was raped by men from her ethnic community, while another respondent noted that she was raped by the members of the ODM party because she is Kikuyu, which was associated with the PNU party. All the

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38 respondents reported that they knew of several people who had been raped in the violence.

From the Olukhongo Women Group, 9 of the female respondents and the 3 male respondents noted that their property was destroyed in the post election phase. Ten of the women and two of the men did not think that the ECK or the judiciary would help them resolve the problems that they faced in the post election phase of the conflict. A similar number of respondents did not believe that the victims would get any justice in the court system. All the respondents in this group were of the view that single women were more vulnerable to violence as opposed to the married women. All the respondents knew of at least five women who were sexually assaulted and at least five men who lost their property as a result of the violence.

All the respondents in the Tim Kinda Women Group and Imani Women Group reported that the violence in the post election phase targeted men in their ward. Men were killed or maimed and in their view this resulted in a lowering of the standard of living as the family incomes were reduced. They expressed the view that the women in their location were vulnerable to violence as they did not have the protection that the presence of their husbands afforded them. They also noted that many young men had been killed and this changed the social roles as women had to take over some roles previously played by men. They noted that the same applied where women had been killed or injured as the men had take over the roles previously played by women.

Personal interviews were conducted with Muhonja Ashihundu the mobilizer of Olukongo Women group, Philomena Katunge of the Slum Girl Hidden Talent, Roseline Orieko of Tim Kinda Women Group and Florence Mukambi of Olukhongo Women

Group. They corroborated the responses of their group members and provided clarification where necessary.

Telephone interviews were conducted with Jane Onyango and Evelyne Opondo[3] on 5th June 2009 and 14th October 2009 respectively. Telephone interviews were also conducted between 1st June 2009 and 14th October 2009 with Deborah Okumu[4] of the Caucus for Women's Leadership and two female members of parliament who requested anonymity.

4.7 Analysis

The three objectives of the research were met. An analysis of the structural perspectives of conflict was undertaken in Chapter Two. Chapter Three analysed the gender dimensions of the electoral process and a case study of Kibera was undertaken in Chapter Four to analyze the gender dimensions of the violent electoral conflict in Kenya.

4.8 Demonstrating the Hypotheses

The hypotheses made in the research were:-

a)   That conflict affects men and women differently based on the pre-existing relations that are embedded in the structure of the society;

b)   That the impact of the gender dimensions of the violent electoral conflict in Kenya substantially reorganized the social relations notwithstanding the political and ethnic dimensions of the conflict.[5]

The extent to which the hypotheses have been demonstrated is analyzed in the pre election, election and post election phases of the electoral process. As noted in Chapter 3, the experiences of men and women in the electoral processes do not arise in the electoral

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[3] See chapter 3 , section 3.3
[4] See Chapter 3 , note 17
[5] Chapter 1, section 1.6

process election but are integral components of the societal relations within and outside of the electoral processes.[6] In analyzing the structural perspective of violent electoral conflict, the political contest for access to resources is noted as one of the levels of interaction.[7] This contest is guided by the general rules that direct resource allocation and ownership. Under these rules are more specific terms regulating the relationships in the smaller subgroups in society, and these ultimately lead to the rules that govern the political and social relationships between the individuals members of these sub groups. At this level, the terms relate to men and women differently as the authority and social legitimacy of women's access to resources is founded on the existing social structures.[8]

4.9 Pre election phase

The hypotheses were demonstrated in the pre election phase of the electoral process. In this phase, the pre election phase of one electoral cycle overlaps with the post election phase of the previous cycle. The social relationships in the pre election cycle are founded on the pre existing relations in the previous cycle[9] at several levels including the social, political , ethnic and cultural. The governance structures that come under scrutiny in this phase affect individual male and female voters differently even as they seek, as part of bigger groups that include both men and women, to change leadership to ensure that the anomalies in the structures are corrected. The effects of these anomalies on men and women are interpreted differently by the various groupings at the social, political, ethnic and other levels.

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[6] S.Ssali , " Human Security, Conflict and Women in the Horn of Africa," in M. Mwagiru(ed) *Human Security : Setting the Agenda for the Horn of Africa* (Nairobi: Africa Peace Forum, 2008) , p 102.
[7] Chapter 2 , Section 2. 3 and Chapter 3 , section3.3
[8] S.Ssali , " Human Security, Conflict and Women in the Horn of Africa, ibid , p 102
[9] Ibid

In this phase, the focus is on the need to attain human security that implies protection against a future of risk and deprivation, injury or death while encompassing the elements of predictability and control.[10] Where there is no human security, the effects are different for men and women and so also are the means of attaining human security and the nature of the components of human security for men and women in different societal settings. These differences predate the pre election phase and are evident in the development policies of the country.[11] The respondents in the case study in Kibera, expressed a common need to improve their standard of living. Nonetheless, the level of participation of men and women in the voter education and registration and campaign was not uniform. The reasons for the differences were based on the roles of the men and women in Kibera.[12]

The institutions and instruments of management in this phase are also based on the existing social contexts.[13] The various interactions at the political party levels depend on the extent to which men and women participate in the governance of the country.[14] Where there is violence in this phase, the consequences on men and women are different based on the existing societal relations between men and women at the individual level.

5.0 Election phase

In the election phase the hypotheses were demonstrated at the level of

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[10] O Sana, " Good governance as a Building Block towards Improved Human Security in the Horn of Africa", in M. Mwagiru (ed) *Human Security: Setting the Agenda for the Horn of Africa*(Nairobi: Africa Peace Forum, 2008) pp 35-36

[11] Chapter 2 , note 53

[12] Chapter 4, section 4.4

[13] S. Mozaffar, J.R. Scarritt, G. Galaich, " Electoral Institutions, Ethnopolitical Cleavages , and Party Systems in Africa's Emerging Democracies" , *The American Political Science Review*, Vol 97, No 3 (Aug., 2003) p 380

[14] Chapter 2, note no 53

individual voters. The voting happens under the principles of equality drawn from the electoral laws that guarantee the equal participation of men and women in the electoral process.[15] The institutions also carry out their role of managing the elections from a basis that does not discriminate against either gender.

The underlying factors make it possible to distinguish between the role and actions of men and women in the election process. In the pre election phase as in the election phase the role of the political parties is defined by the extent to which the social structures define the role of men and women in decision making. This could explain the instance in the case study voter registration at the pre election phase shows high levels of voter registration amongst men and women. At the voting stage, the percentage of women voting is lower than that of men.

In the institutions and laws governing the election period, the same rules of the pre election phase apply. Where violence occurs, it affects men and women in the same measure even though the types of violence and the target might differ between men and women.

5.1 Post election phase

In this phase, both hypotheses were demonstrated. The violence against men and women happens against the different norms that govern the relationships between men and women. Sexual violence against women demonstrates the position of women in times of conflict. In humiliating and conquering women, the position of the men that position of the men that these women relate to is weakened.[16] The hypotheses were also demonstrated in the case study where women were ostracized by their families after they

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[15] Constitution of Kenya , section 41 and the Electoral Offences Act, Chapter 66 of the Laws of Kenya.
[16] S.Ssali , " Human Security, Conflict and Women in the Horn of Africa, ibid , p 102

were raped in the post election phase. These women created new relationships in the society such as the Slum Girl Hidden Talent that formed part of the respondents of the research.

The institutional response to violence was a further demonstration of the existing social relations that are embedded in the structures. The police response to sexual violence and the fact that they perpetrate some of the violence is an indication of how women are viewed in the society in terms of conflict[17]. This makes it difficult to use the institutional and legal structures even where these have been proven in the pre election and election phase to afford equal protection to the rights of men and women in the electoral process.

The existing relations between men and women are affected differently depending on whether the men or women are the targets of the violence. This is demonstrated in the reorganization of the social structures where men are killed and women left to carry on the roles that the men did before the conflict. This reorganization also happens where men survive women in conflict and take on the roles previously undertaken by women.[18]

At an institutional level, the governance structures are reorganized with the change of leadership as there are new actors who take over from the previous leadership. This is accompanied in certain instances by a reorganization of the social relationships as well. The appointments to the leadership structures of institutions and organizations may be based on cronyism, meant to create new leadership models. This may be undertaken with little regard for the pre existing structures

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[17] P. Kameri-Mbote, "Gender, Conflict and Regional Security" in M. Mwagiru (ed) *African Regional Security in the Age of Globalization* , (Nairobi: Heinrich Boll Foundation, 2004) p.83
[18] P. Kameri-Mbote, "Gender, Conflict and Regional Security" in M. Mwagiru (ed) *African Regional Security in the Age of Globalization* , (Nairobi: Heinrich Boll Foundation, 2004) p.82

Chapter Five

Conclusion

This research project analyzed the structural gender dimensions of electoral conflicts. A case study was undertaken of the Kibera slums in Nairobi. The electoral processes involve men and women who coalesce into groups that interact at different levels including the social and the political. The structural conflict that was experienced in Kenya happened at the level of the various groups within which the men and women interact. There were different experiences of the conflict at the group level and at the individual level. Within the group levels the differences took on a gender dimension that was experienced at the individual levels.

In the past, Kenya as a one party state joined the ranks of the dictatorship and any action whether individual or group that did not follow the path of the one party framework was considered dissident.[1] With the democratization processes that took place in the 1980s, an increasing number of women became visible in the political processes to end autocratic rule.[2] The shift from state security to human security as a focus of interaction also contributed to the increased participation and visibility of women in the political processes.[3]

Despite the changing role of the individual, the electoral process has remained to be a state affair at the institutional level with the management undertaken by the government of the day. Voter education was not a primary focus of the government in the

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[1] A. Mafeje, "Democratic Governance and New Democracy in Africa: Agenda for the Future," in P. Nyongo, A. Ghirmazion and D. Lamba (eds), *New Partnership for Africa's Development, NEPAD: A New Path* (Nairobi: HBF, 2004)? p 73
[2] Z. Tadesse, " In Search of Gender Justice: Lessons from the past and unraveling the "new" in Nepad," in in P. Nyongo, A. Ghirmazion and D. Lamba (eds) , *New Partnership for Africa's Development , NEPAD: A New Path* (Nairobi: HBF, 2004) p 282
[3] See discussion in Chapter 2, section 2.2

past as this could lead to the questioning of the authoritarian leadership. In the past general election voter education was undertaken by the government and non governmental organizations. This resulted in an increased number of women participating in the electoral processes.[4] Gender inequality exists and there are certain realms where women are underrepresented. This inequality has legal implications as the constitution provides for non discrimination and makes certain exceptions to the application of the principle of non discrimination. These legal implications are experienced in the electoral processes as well[5].

In the face of these changes in participation and civic education, the laws have remained unchanged for the most part. The Constitutional provisions on elections have remained the same in terms of gender.[6]

The current situation in Kenya after the violent electoral conflict following the disputed presidential election has had implications at the institutional and individual levels. At the institutional level, there has been a reorganization of the electoral process with the establishment of a new electoral body the Interim Independent Electoral Commission , IIEC. The implementation of the outcome of the mediation processes is underway. From a gender perspective, it is noted that the basic document was gender neutral yet the reality is gender specific Having regard to the inequality of circumstances between men and women, the conflict affected men and women differently and a general category of rules that is not inclusive of women cannot respond to their situation.[7]

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[4] Z. Tadesse, " In Search of Gender Justice: Lessons from the past and unraveling the "new" in Nepad," *op cit.*
[5] See the discussion in Chapter 3, section 3.4
[6] Constitution of Kenya, section 41
[7] P. Kameri-Mbote, "Gender, Conflict and Regional Security," in M Mwagiru (ed) *African Regional Security in the Age of Globalization* (Nairobi: Heinrich Boll Foundation, 2004) p.87

The importance of a gender analysis is aptly justified by Dahl who notes that as long as men and women follow different paths in life with different living conditions, needs and potentials, then the rules of law will affect men and women differently; and that gender neutral laws are often pitted against gender specific realities[8]. This assessment means that the structural dimensions of the conflict affect men and women differently even though they belong to bigger subgroups that experience the structural conflict.

The violent electoral conflict reorganized the political and social relations. Where men were victims, women have had to take over the roles that they played. Similarly, men have taken over the roles of women in the society, where women were killed or injured in the violence. These men and women did not go through the socialization processes to enable them be effective in carrying out these roles. At the institutional level, There has been no commensurate reorganization of the laws and policies to address this change in social relations.

The future must therefore strive for a balance between men and women in the electoral processes. This balance must take into consideration the specific needs and circumstances of men and women and address them through the phases of the electoral processes, having due regard to the interrelation and overlaps between the phases.

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[8] P. Kameri-Mbote, "Gender, Conflict and Regional Security," *op cit*

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