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INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES

{ Dual Diplomacy in the Mediation Process of the Kenya 2008 Post Election Conflict }

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A research project presented in partial fulfilment of the Degree of Master of Arts in International Conflict Management at the Institute of Diplomacy and International Studies, University of Nairobi.

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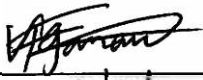
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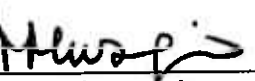
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Declaration

I, FRACIAH NJERI NGAMAU, declare that this project is my original work and has not been submitted for the award of a degree in any other university.

Signed 
Date 4/11/2011
Fraciah Njeri Ngamau

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

Signed 
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Dedication

I dedicate this project to my family: My father, Ngamau Mungai, my mother Jane Wanjiku, my late brother Gichuru Ngamau and sister Dr. Emily Njoki Ngamau who have been my source of strength and inspiration throughout all my studies. Their support has been priceless.

I also dedicate this project to Mrs. Rocio Kessler who has just terminated her duty as the Economic and Commercial Counsellor of Spain in Nairobi. While under her leadership, I was able to carry out my research and write this paper calmly. I truly value her support and understanding.

Acknowledgement

Firstly I thank God for without him none of this would be possible. I thank my supervisor Prof. Mwagiru whose brilliance I highly respect and desire to attain. I also thank all my lecturers and classmates who have seen me through my entire masters' programme and given me the support that I needed. I also acknowledge my interviewees who have edified this research and made this paper possible.

Abstract

This project aims at clearly outlining dual diplomacy and illustrating that it is the best method of conflict resolution. Official diplomacy which is herein referred to as track I diplomacy is weak and indeed handicapped it is not complimented by unofficial diplomacy herein referred to as track II diplomacy.

Dual diplomacy demands for the simultaneous use of both of the mentioned tracks of diplomacy. A separate employment of each of the tracks of diplomacy connotes a gap or a lack of effectiveness. Both tracks of diplomacy must be aware of the dealings of each other so as to effectively complement each other.

The mediation processes of the 2007-2008 Post election violence evidenced in Kenya is the case in point used in this project. The mentioned mediation successfully adopted dual diplomacy albeit with a few hiccups. In this paper, a clear illustration of both tracks of diplomacy at play in the mediation process is accurately given. This is done with the use of interviews of individuals from both tracks of diplomacy. These interviews also serve to give a critical analysis of each of the mentioned tracks of diplomacy.

This project highlights theories such as that of ripe moment in mediation and how it is handled by both tracks of diplomacy.

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Chapter 1: Introduction to the study

Mediation is a means of conflict management where the conflicting parties seek the assistance of, or accept an offer of help from, a third party who may be in the form of an individual, group, state, or organization, to settle their conflict or resolve their differences without resorting to physical force or invoking the authority of the law. This definition is also observed and noted by Bercovitch, Anagnoson, and Wille.¹ Pruitt takes it a step further by asserting that third parties or mediators have the function of compensating for the deficiency of parties hence they must deploy cures or maladies that are possible to deal effectively with the conflict.² Zartman adds that the parties in conflict may also accept third-party intervention as a face-saving device to protect their domestic and international reputation when making major concessions.³

Dual diplomacy is the concurrent implementation of both formal and informal diplomacy. The formal or official diplomacy is referred to as Track I while the informal or unofficial one is referred to as Track II.⁴ Both track I and track II diplomacy deal with the same subject matter but adopt different procedures and practices. When the mentioned tracks are used simultaneously, the result is dual diplomacy. Dual diplomacy seeks to be all inclusive by factoring in the interests of both the people in the grassroots and the statesmen. Dr. Louise Diamond and Ambassador John McDonald note that these tracks should operate together as a system since each track has its own resources,

¹ J. Bercovitch et al, Some conceptual issues and empirical trends in the study of successful mediation in international relations. *Journal of Peace Research* 28 (1):1991: 7-17 pp 8

² D. G. Pruitt, Mediator behavior and success in negotiation. In J. Bercovitch (Ed.), *Studies in international mediation* (2nd ed). (New York: Palgrave Macmillan., 2002) pp. 41-54

³ W.I. Zartman, *Ripe for Resolution: Conflict and Intervention in Africa*. (New York: Oxford University Press, 1985) pp 9

⁴ S. A. Nan, "Coordination and Complementarity of Conflict Resolution Efforts in the Conflicts Over Abkhazia, South Ossetia, and Transdnistria." Doctoral Dissertation. (George Mason University: Fairfax, VA, 1999) pp 58.

values, and approach which when used together in complementarity, work much more effectively.⁵

1.1 Statement of the Research Problem

Track I diplomacy has been criticized for ignoring or rejecting ideas that responsible private citizens believe should be explored by their government. Track I diplomacy is aimed at solving a conflict by establishing an agreement or achieving a ceasefire to end an eruption of violence or conflict. However, it does not bring healing and reconciliation on the ground. Sometimes these agreements cannot be implemented on the ground because they may be rejected by the people on the ground or not receive or enjoy any goodwill support hence the problem of re-entry.

This means that whatever decision that track I diplomacy agrees and signs to is only known to itself and may be rejected by the people on the ground when it is imposed on them. This in fact creates negative peace instead of positive peace which ends up in total disarray of any post conflict rebuilding of destroyed state institutions and reconciliation efforts. Track I diplomacy used as the only track of diplomacy has thus been proven to be very counteractive.

The huge gap that exists between the state officials who sign an agreement to settle a conflict and the people in the grassroots is not bridged therefore submerging the grassroots into structural violence and animosity. At times, official diplomacy may hit a deadlock and no solution is arrived at entirely leaving the conflict as is or even worse. However, only track II diplomacy has been known to penetrate some avenues that track I diplomacy cannot. The significance of a conflict resolution process is often not clear without any track II diplomacy undertakings aimed at changing attitudes and

⁵ Pruitt, *Mediator Behavior and Success in Negotiation. In J. Bercovitch (ed.), Studies in International Mediation op cit p. 50

relationships among participants and in building their capacity to work together cooperatively to develop peaceful means for resolution⁶.

1.3 Objectives of the Research

The main objective of this study:

- To give detailed information on the concept of dual diplomacy as the most effective means of conflict resolution in any front since it explores all the different avenues to conflict resolution and is all inclusive. This study seeks to show beyond any reasonable doubt that there is no single track diplomacy that can effectively solve a conflict.

The secondary objectives include:

- Examining the role and activities of each of the tracks of diplomacy thereby establishing the weaknesses as well as the strengths of each
- Exploring the avenues of complementarity available in dual diplomacy. This will be done by critically examining the Kenya 2008 mediation process in its entirety, where both the official and unofficial diplomacy efforts were employed.

1.4 Literature review

This section presents and discusses the literature relevant to this study. It starts by discussing the theory of a mediation process and the stages that entails it. It then proceeds to give a brief on dual diplomacy thereby discussing the official (track I) diplomacy as well as the Unofficial (track II) diplomacy.

1.4.1 Theory of a mediation process

Corbacho defines mediation as 'a form of third party intervention in disputes for the purpose of abating or resolving that dispute through negotiation'⁷. Bercovitch 1984

⁶ Kaye, D. D., "Track Two Diplomacy and Regional Security in the Middle East." *International Negotiation: A Journal of Theory and Practice*, 6,1,(2001)pp 49-77

expounds on this definition by noting that mediation is a process of conflict management, related to but distinct from the parties' own negotiations, where those in conflict seek the assistance of, or accept an offer of help from an outsider (whether an individual, an organization, a group, or a state) to change their perceptions or behavior, and to do so without resorting to physical force or invoking the authority of law.⁸ The third party intervener known as the mediator thus transforms the negotiating structure from a dyad (two parties) into a triad (three parties).

Indeed as argued by Moore, mediation is a form of conflict management in which ultimate decision making power remains with the disputants.⁹ Both Touval and Zartman assert that the parties accept mediation in the hope that negotiation through an intermediary will help them reduce some of the risks that compromises entail, by protecting their image and reputation when making concessions. Additionally, a mediator's involvement may include a guarantee for the eventual agreement, thus reducing the risks of violation for either adversary.¹⁰

According to Bercovitch, mediation is *ad hoc* in nature, non-coercive, and voluntary, which makes it less threatening than other possible conflict management options. It is non-evaluative and non-judgmental and it is particularly suited to the reality of international relations, where states and other actors guard their autonomy and independence quite jealously. The adversaries involved in the conflict may choose whether to begin or continue mediation or not, and they retain their control over the outcome (if not always over the process) of their conflict, as well as their freedom to

⁷ Corbacho A. L. 2008. *Pre negotiation and Mediation: Anglo-Argentine Diplomacy After the Falklands / Malvinas War, 1983-1989: International Mediation* 13 (2008)pp 311-339.

⁸ Bercovitch, J. 1984. *Social Conflicts and Third Parties: Strategies of Conflict Resolution*. Boulder, CO: Westview p98.

⁹ Moore, C. W. 1986. *The Mediation Process. Practical Strategies for Resolving Conflict*. San Francisco: Jossey-Bass.

¹⁰ Touval S. and Zartman W (eds). 1985. *International Mediation in theory and practice*. Boulder, C O: Westview p8.

accept or reject any aspects of the process or the ultimate agreement. Once completed, a mediator departs the arena of the conflict.¹¹

Mediation hinges a lot on ripe moment which is essentially the timing of intervention in a conflict. A ripe moment for mediation, according to Bercovitch, is critical since early mediation may be premature and late mediation may face too many obstacles. Young notes that conflicts pass through a life cycle that encompasses a *intervention than others.*¹²

A ripe moment may describe a phase in the life cycle of the conflict where the parties feel exhausted and hurt, or where they may not wish to countenance any further losses and are prepared to commit to a settlement, or at least believe one to be possible. In destructive and escalating conflicts, mediation can only have a chance of success if it can capture a particular moment when the adversaries, for a variety of reasons, appear most amenable to change. Timing of intervention in a conflict is an issue of crucial importance and one that must be properly assessed by any would be mediator. However, if the moment is not ripe according to the parties due to a stalemate between them and so on, it is upon the mediator to make the moment ripe for mediation so as to end the suffering of others who are affected by the conflict.

The process to the mediation table actually determines whether the mediation process takes off or not and as articulated by Stein, the process of getting to the table may be even more important than the table itself. As articulated by Stein, “long before the first formal session opens, the negotiation process begins with the decision made by each party to explore the possibility of negotiating.” The pre-mediation phase,

¹¹ Bercovitch, J. 1984. *Social Conflicts and Third Parties: Strategies of Conflict Resolution*. Boulder, CO: Westview p99.

¹² Young, O. R. 1967. *Intermediaries: Third Parties in International Crises*. Princeton, NJ: Princeton University Press p 19.

according to many authors, is important as a preparatory phase that helps to improve formal negotiations aimed at achieving a resolution to an existing conflict. The resolution of any dispute depends on recognizing a settlement range consisting of all the possible settlements which both sides might prefer to no agreement at all. A preliminary task of the negotiators is to explore the possibility of finding such zones where the mediator must analyze the conflict in question so as to understand its history, development or dynamics and also establish the tools and skills that are available and where to source for them.

The pre-mediation phase sets the course of the mediation process by setting the agenda and making arrangements to proceed with formal negotiations. This includes the identification of the principal parties or major actors and the issues that they consider to be crucial. In addition the pre-mediation phase is where gathering of resources is done so as to amass leverage and also to avoid any ambiguity which could lead to a collapse of the mediation process due to financial constraints. Corbacho notes that the pre-mediation phase may offer the key turning point in relations between the principal parties. The turning point can be an event or new condition that prompts a reassessment of alternatives.¹³

A major advantage of pre-mediation is that it is less structured and less regulated by rules than is formal negotiation. It allows more freedom to the parties and it is more open-ended and fluid. It defines and narrows the boundaries of the dispute, setting the agenda by eliminating many of the most problematic issues, identifying tradeoffs, and structuring the agenda of formal negotiations.¹⁴ Here, the mediator tries to "achieve some convergence of expectations by reducing distortion, ignorance, misperception, or

¹³ Corbacho A. L. 2008. 'Pre negotiation and Mediation: Anglo-Argentine Diplomacy After the Falklands / Malvinas War, 1983-1989' *International Mediation* 13 (2008) 311-339.

¹⁴ Stein, J. G (ed), 1989, "Pre negotiation in the Arab-Israeli Conflict: The Paradoxes of Success and Failure." In *Getting to the Table. The Processes of International Pre negotiation.* Baltimore: The Johns Hopkins University Press. p 242.

unrealistic intentions" held by the disputing parties and attempts to build the confidence of the parties and establish mutual trust and recognition so that the parties will continue to negotiate.¹⁵ This is achieved usually through the use of communication-facilitations strategies or shuttle diplomacy.

On some occasions, the pre-mediation phase has produced emphatic breakthroughs which have warranted for suspension of the other mediation phases. Indeed, if well conducted, the pre-mediation phase can actually resolve the conflict therefore eliminating any further mediation processes which would require a lot of time and money. It is considered by many to be the most important and crucial part of the mediation process as it has witnessed the birth of many significant agreements and the following stage, which is the mediation stage, actually comes in to ratify what has already been agreed upon in the pre-mediation stage.

The mediation phase is the most visible to the public and seen by most to hold the most weight since it is the phase where the parties as well as their constituents and allies interact formally on the negotiating table and where the major agreements are forged. The mediator must first establish the number of sessions that should be undertaken in this mediation phase. There exists the single-session and the multi-session strategy. Supporters of the former argue that it is important to act when the issues are still fresh or the iron must be moulded when it is hot and there is thus no need of for breaking for consultations since this takes a lot of time and may bring in confusion since saboteurs may come into play.

As edified by Brett et al, the practice of mediation revolves around the choice of strategic behaviours that mediators believe will facilitate the type of outcome they seek

¹⁵ Bercovitch, J. 1984. *Social Conflicts and Third Parties: Strategies of Conflict Resolution*. Boulder, CO: Westview pp 98

to achieve in the conflict management process.¹⁶The choice of any strategy heavily depends on the character of the conflict at hand, the relationship of the parties with their constituents/allies, the issues of the conflict, the intensity or the stage of the conflict in the conflict cycle e.g. a violent conflict requires different mediation strategies from that without violence. In addition, the understanding of the conflict by the mediator is what informs him/her on the strategy to employ. After identification of a strategy, the mediator must then blend it with the environment of the conflict.¹⁷

There exists a scale of strategies which include mild strategies, moderate strategies and heavy strategies. The mild and moderate strategies that may be undertaken by the mediator during the mediation stage as highlighted by Zartman and Touval include communication, formulation and manipulation.¹⁸ The heavy strategies are usually used by States and are often implemented when the moment is not ripe and the mediator needs to ripen it through manipulative tactics like threats and inducements as was in the Zimbabwe mediation between Mugabe and Margaret Thatcher over the land tenure.

Bercovitch notes that a mediator serves as a channel of communication among disputing parties.¹⁹ The mediator's first task therefore is to accomplish some contact or communication between the involved parties if there exists tension and cold relations between them. Formulation involves exploring at the negotiating table, various strategies or road maps to employ so as to provide a common understanding of the problem and its solution or a shared notion of justice to govern an outcome. This

¹⁶ Brett, J. M et al. 1986. 'Mediator Style and Mediation Effectiveness'. *Negotiation Journal* 2: 277-85. p 281

¹⁷ Rubin, J. Z. 1980. 'Experimental Research on Third-party Intervention in Conflict'. *Psychological Bulletin* 87: 379-9: 389.

¹⁸ Zartman, William, and Saadia Touval. 1996. International Mediation in the Post-Cold War Era. In *Managing global chaos*, edited by Chester A. Crocker and Fen Osier Hampson (with Pamela Aall), 445-61. Washington, D.C.: U.S. Institute of Peace Press p 458.

¹⁹ Bercovitch, J. 1984. *Social Conflicts and Third Parties: Strategies of Conflict Resolution*. Boulder, CO Westview p 156.

requires a lot of informed innovation on the part of the mediator since he/she has to come up with workable ideas to implement in the mediation of each conflict.

Manipulation requires a mediator to use his leverage which translates to his influence or power so as to attain an agreement in the mediation. This is mainly employed to the parties who are not willing to reach an agreement or continue dialogue with each other. Kochan notes that when the conditions are ripe, a settlement/ agreement may not occur unless the mediator engages in manipulative tactics.²⁰ As accurately observed by Keashly and Fisher as well as Bloomfield et al, a mediator's activities for a successful mediation are heavily based on whether or not leverage is used.²¹

The mediation phase calls for fractionating of issues which entails breaking down them into small factions that can be easily dealt with and comprehended by all. One of the options of the mediator is to start with the straightforward issues in the agenda and then proceed to the weighty or complex issues later while the other option is to start with the complex issues and work his way to the straightforward issues.

During the mediation phase and indeed the entire mediation process, the mediator should be non-directive and can only make suggestions but not impose his will and decisions on them. He must also be sensitive and aware of the allies and constituencies of both parties and others who are suffering from the effects of the conflict and hence his immediate objective should be to stop the conflict from escalating any further.

²⁰ Kochan, T. A. 1981. 'Step-by-step in the Middle East from the perspective of the labor mediation process'. In *Dynamics of Third Party Intervention: Kissinger in the Middle East*, edited by J. Z. Rubin, 122-35. New York: p 126

²¹ Bloomfield, D. et al. 1998. '*Negotiation Processes*'. In *Democracy and Deep Rooted Conflict: Options for Negotiators*, edited by Peter Harris and Benjamin Reilly, 59-120. Stockholm, Sweden: International Institute for Democracy and Electoral Assistance (IDEA).

1.4.2 Dual diplomacy

Dual diplomacy refers to a concurrent use two tracks of diplomacy and in this study, that of both track I and track II diplomacy in a certain conflict management process. Track I diplomacy which refers to official governmental diplomacy, or "a technique of state action, is essentially a process whereby communications from one government go directly to the decision-making apparatus of another"²² Track II diplomacy refers to private citizens negotiating topics that are usually reserved for official negotiations.²³

According to Diamond and McDonald, track I diplomacy entails peacemaking through formal diplomacy, which is the world of official diplomacy, policymaking, and peace building as expressed through formal aspects of the governmental process. They further note that track II entails non-governmental/professional, or peacemaking through conflict resolution, which is the realm of professional nongovernmental action attempting to analyze, prevent, resolve, and manage international conflicts by non-state actors.

Track II also encompasses peacemaking through Commerce, which is the field of business and its actual and potential effects on peace building through the provision of economic opportunities, international friendship and understanding, informal channels of communication, and support for other peacemaking activities. Track II may also have peacemaking through personal involvement, which includes the various ways that individual citizens become involved in peace and development activities through

²² Said, A.S., Lerche, Jr., C.O. & Lerche III, C.O. (1995). Concepts of international politics in global perspective . Englewood Cliffs, New Jersey: Prentice Hall. p. 69.

²³ Montville, J. V., & Davidson, W. D. Foreign Policy According to Freud. *Foreign Policy*, No. 45 Winter 1981-82, 155

citizen diplomacy, exchange programs, private voluntary organizations, nongovernmental organizations, and special-interest groups.

Track II also includes research, training or peacemaking through learning, which includes the related worlds of research, as it is connected to university programs, think tanks, and special-interest research centres; training programs that seek to provide training in practitioner skills such as negotiation, mediation, conflict resolution, and third-party facilitation. Track II further includes education which begins in kindergarten and pursues through to PHD programs that cover various aspects of global or cross-cultural studies, peace and world order studies, and conflict analysis, management, and resolution.

Another arm of track II diplomacy involves activism, or peacemaking through advocacy, which covers the field of peace and environmental activism on such issues as disarmament, human rights, social and economic justice, and advocacy of special-interest groups regarding specific governmental policies. Track II diplomacy also involves religion, or peacemaking through faith in action, which examines the beliefs and peace-oriented actions of spiritual and religious communities and such morality-based movements as pacifism, sanctuary, and non-violence.

Track II diplomacy is also characterized by active funding or peacemaking through providing resources, which refers to the funding community—those foundations and individual philanthropists that provide the financial support for many of the activities undertaken. Track II diplomacy embraces communications and the media or peacemaking through information, which is the realm of the voice of the people. This

can be interpreted by how public opinion gets shaped and expressed by the media-print, film, video, radio, electronic systems, the arts etc.²⁴

Each of the two mentioned tracks has its own "resources, values, and approaches". However, the tracks, when functioning together and not separately, produce a synergy to approaching conflict which Diamond calls a "systems approach to peace." She insists that no one track, by itself, can build a peace process that will last.

1.5 Theoretical Framework

Zartman states that there is growing attention to the importance of pursuing multiple tracks simultaneously.²⁵ This calls for a shift from single-track diplomacy. Many have argued that dual diplomacy is a way to motivate, catalyze, inspire, instruct, facilitate, encourage, support, assist, demonstrate, and convene. Diamond points out that the adoption of dual diplomacy presents possibilities, open minds to new ways of thinking, and cheer people on as they take charge of changing the systems they live in.

Dual diplomacy can articulate theories and best practices, provide a safe space where people can meet 'the other', or elicit inner individual and cultural wisdom about peace and conflict resolution without imposing solutions on others, or build their new systems for them. Indeed, dual diplomacy is a systems approach, in which even the intervener is part of the system, and because it is a multi-level approach, in which the personal level is just as important as the inter-group level, healing and reconciliation are critical aspects of resolving any conflict. New and sustainable peace systems must take into account the mending process that comes with acknowledgement of the harm done,

²⁴ Diamond, Louise. "Planting Seeds." In *People Building Peace: 35 Inspiring Stories From Around the World*. edited by European Centre for Conflict Prevention, ed. Utrecht: European Centre for Conflict Prevention, 1999 p23.

²⁵ Zartman, W, and Rasmussen L. (eds) 1997, *Peacemaking in International Conflict: Methods and Techniques*. Washington, DC: United States Institute of Peace Press.

apology and forgiveness when possible, completion of mourning, and healing at the individual and group levels.

This study is also informed by the theory of ripe moment in mediation. Henry Kissinger in 1974 recognized that "stalemate is the most propitious condition for settlement." The concept of a ripe moment centers on the parties' perception of a Mutually Hurting Stalemate (MHS) which is optimally associated with an impending past or recently avoided catastrophe²⁶ The concept is based on the notion that when the parties find themselves locked in a conflict from which they cannot escalate to victory and this deadlock is painful to both of them, they seek an alternative policy or way Out.²⁷ MHS is part of the major reasons that led the two conflicting parties in Kenya to opt for mediation.

1.6 Methodology

This research will be qualitative and will dwell on exploratory studies which entails both analyzing and interpreting of the data accumulated. The dependent variable will be mediation while the independent variable will be dual diplomacy.

1.6.1 Data collection

Secondary sources shall mainly inform this study while primary sources will also be adopted. In-depth information gathering and document analysis will constitute the data collection tools for the secondary data while direct observation and open ended and unstructured interviews will be the primary data collection tools.

a) Direct observation

This technique will be used to study the intrigues of dual diplomacy thereby providing a richer understanding of the subject. This will entail examining the actual

²⁶ Zartman, I William & Berman, Maureen, 1982. *The Practical Negotiator*. New Haven: Yale University Press. Pp 66-78

²⁷ Touval, Saadia & Zartman, I William, eds., 1985, *International Mediation in Theory and Practice*, Westview pp pp 11, 258-60

happenings on the ground. This will be informal but will in no way dilute the quality of data collection. It will allow for a more systematic, structured process, using well-designed observation record forms. Data collected will include a description of the event, the strategies and methodology employed and their implication.

b) In-depth information gathering

This will include the events, statements and remarks, opinions and perception, specific knowledge as well as background information relating to the history of dual diplomacy detailing how, when and where it has been adopted.

c) Document analysis

This entails a lot of critical thinking since this study seeks to analyze and understand the historical and current documents in the areas of focus. Data collected in this procedure will include excerpts, quotations, correspondents and official reports.

d) Open ended interviews

These will be used to generate insights on the concept of dual diplomacy and its adoption in the Kenya 2008 mediation process. These findings can however not be used to generalize but will seek to inform as well as expand understanding and offer guidance on their use and implications. The data collected can be validated elsewhere with several other interviews. Participants will be selected using purposive sampling techniques. Data collected will be in the form of quotations, opinions and specific knowledge and background information.

1.6.2 Data analysis

Data will be analyzed interpretatively which will be done by synthesizing, categorizing and organizing the data into palatable information. It will be based on the knowledge that all meaning is situational in a particular context or perspective.

Consequently, the meaning is determined by the context. A hypothesis will then be generated after the data is collected. The data will also be analyzed by establishing clear links to existing and relevant concepts. Outlined below are the steps to be used:

a) Data Organization

This will entail comprehensively reading the data collected so as to get familiar with it. The collected data will then be arranged, recorded, edited.

b) Create Categories, Themes and Patterns

This will require detecting of the various categories or thematic groups of the data and establishing relationships amongst them.

c) Analyzing and Interpreting Information

This will entail evaluating and analyzing the data to determine the adequacy of its information and its credibility, usefulness, consistency and validation of the hypothesis.

d) Writing the Report

This will be the final step and will entail giving a vivid descriptive account of the situation under study. It will give an analytical view citing the significance and implications of the findings.

1.6.3 Reliability and Validity

Reliability will estimate the degree to which an instrument measures the same way each time it is used in under the same conditions with the same subjects. Validity, on the other hand, will involve the degree to which the instrument measures what it is supposed to. To ensure these are observed the research will use peer debriefing and an audit trail in data collection.

1.7 Chapter Outline

- Chapter One introduces the research study.
- Chapter two will focus on the concept of dual diplomacy.
- Chapter three will focus on the Kenya 2007-2008 post election violence conflict
- Chapter four will dwell on both the track I and track II Kenya 2008 mediation processes undertaken simultaneously. This chapter will also give a critical analysis of dual diplomacy as an ideal measure of effective conflict resolution and thereafter feature a conclusion of the thesis.
- Chapter five will offer a conclusion of the research study.

Chapter Two: Concept of Dual Diplomacy

Dual diplomacy is the concurrent use of two tracks of diplomacy in a particular conflict resolution and management process. In other words dual diplomacy could either be the simultaneous use of both track 1 diplomacy and track One and a half diplomacy or the concurrent use of both track I diplomacy and track II diplomacy or the synchronized use of both track One and a half diplomacy and track II diplomacy. There have been instances where all the three tracks of diplomacy are used simultaneously in the same conflict resolution process. This is referred to as triple diplomacy. However, this study shall only focus on a dual diplomacy featuring the use of track I and track II diplomacy. Mwangiri defines dual diplomacy as 'the use of both track one and track two operating in parallel in the same conflict. It is the operation of both tracks simultaneously as part of the conflict management process'¹.

According to Said, the term "track I diplomacy" or traditional diplomacy refers to official governmental diplomacy, or "a technique of state action, which is essentially a process whereby communications from one government go directly to the decision-making apparatus of another"². Track I diplomacy is characterised² by formal rules and is informed by legal and other practices which states hold and abide by at the international level. Along the official track, track I diplomacy may take place bilaterally between two states, multilaterally when several states interact together, and even regionally or globally through inter-governmental organizations (IGOs).³

Track II diplomacy is essentially the informal interaction between members of adversarial groups or nations with the goals of developing strategies, influencing public opinions and organizing human and material resources in ways that might help resolve the

¹ Mwangiri, M. *The International Management of Internal Conflict in Africa: The Uganda Mediation, 1985* (Unpublished PhD Thesis, University of Kent at Canterbury, 1994) pp.37-38.

² Said, A.S., Lerche, Jr., C.O. & Lerche III, C.O. (1995). *Concepts of International Politics in Global Perspective*. Englewood Cliffs, New Jersey: Prentice Hall. p. 69.

conflict. McDonald notes that track II diplomacy is a form of conflict resolution that is nongovernmental, informal, and unofficial which may involve interaction between private citizens or groups from different countries, who are outside the formal governmental power structure⁴.

Resolution of most if not all conflicts requires the use of energy and participation of a diverse group of actors who bring together unique skills and expertise to the task of building sustainable security. These actors involve politicians, military officials, government diplomats, conflict resolution practitioners, academia, business entrepreneurs, women's groups, educators, journalists and grass root activities, to name a few⁵. In successful dual diplomacy, there is sustained cooperation, coordination and collaboration between the two tracks of diplomacy working together. The integration of these two tracks is illustrated in the diagram below.



They are used together by involving each other in their separate activities. For instance, a track I mediation process can incorporate experts in a certain field say human rights who fall under the track II category, so as to inform their decision making. In this case, the track I initiative is not entirely independent from the input of the track II individuals. In the same way, a track II mediation process involving diverse stakeholders

⁴ McDonald, J.W. 'Further Exploration of Track Two Diplomacy' in Kriesberg, L. & Thorson, S.T. (Eds) *Timing: The De-escalation of International Conflicts* (Syracuse, New York: Syracuse University Press, 1991) p.202.

⁵ Manjrika Sewak. *Multitrack Diplomacy between India and Pakistan: A Conceptual Framework for Sustainable Security*. (RCSS Policy Studies 30) (Manohar, 2005)

some of who may involve the people in the grassroots also involve key policy makers in their activities since they need these policy makers to make into law the agreements reached during this track II activity. Hence, when used together, the two tracks combine and bring together the different attributes and resources that they each possess. This is more clearly understood by examining the resources contained in each track which are necessary for success conflict resolution: The X symbol symbolizes the lack of the mentioned resource while the resource that each track possesses is mentioned.

Track I diplomacy	Track II diplomacy	Track One and a half diplomacy
Finances	X	X
Coercive (military power)	X	X
Diplomatic representation	X	X
X	X	Knowledge
X	Human resources	X
X	X	Skills and Expertise
Status	X	Status
Access to leaders	X	Access to leaders
Prestige	X	Prestige

Bohmelt writes that track I Diplomacy tends to be the most effective form of intervention as it carries greater leverage and more resources as compared to the other tracks of diplomacy⁶. However, track I diplomacy does not hold a monopoly of all the resources since both track II and track One and a half contain some resources that track I diplomacy does not have.

According to the table above, no track alone contains all the required resources. It is for this very reason that the tracks must work together so as to bring together their different

⁶ Bohmelt, T. The Effectiveness of Tracks of Diplomacy Strategies in Third-Party Interventions. *Journal of Peace Research* March 2010 vol. 47 no. 2 167-178

resources and thus achieving a successful conflict resolution. The above listed resources are the key determinants of the strategy or course of action to be employed in a particular conflict resolution process.

Strategies of diplomacy

A strategy is a clear plan of action designed to accomplish a particular aim. The use of any strategies in diplomacy is heavily determined by the resources available. Since all the mentioned tracks of diplomacy have all the resources needed for an effective conflict resolution process scattered amongst them, it goes without saying that at least two of them have to be used concurrently. Dual diplomacy is thus inevitable.

Brett et al note that the practice of mediation as a means of conflict resolution revolves around the choice of strategic behaviours that mediators believe will facilitate the type of outcome they seek to achieve in the conflict management process.⁷ Indeed, the understanding of the conflict by the mediator is what informs him/her on the strategy to employ. He/She has to establish the objectives of the mediation process and must also have a clear plan of action on how to realize the objectives set.

It has been observed that where a mediator comes from also matters in the choice of strategy for example, a mediator working for an International non-governmental organization (INGO), a regional organization or a state will tend to adopt a very procedural strategy to enable him or her to exert more formal control over the mediation process with respect to the environment of the mediation seeing that states are involved in Track I diplomacy which has a lot of diplomatic procedures. Many INGOs and regional organizations are also known to be quite procedural and often found to be bureaucratic. This mediator may determine the structural aspects of meetings and control constituency

⁷ Brett, J. M et al. 1986. Mediator Style and Mediation Effectiveness. *Negotiation Journal* 2: 277-85. p 281.

influences, media publicity, the distribution of information, and the situation powers of the parties' resources and communication processes.

It should be noted that not all conflicts would need the exact formulas or strategies to resolve the existing problems even if the mediation was repeated in the same circumstances / environment. This is because the conflicts are dynamic and have to be understood as such. The mediator must be well acquainted with the details necessary to understand the conflict cycle, the system and players involved and so on in order that he/ she may employ the right measures to the mediation.

Light or Mild Strategies

The light strategies also known as mild strategies include communication, arranging meetings, improving relationships, transmitting messages and so on. This means that there is a lot of shuttle diplomacy employed in these strategies and many pre-negotiation and pre-mediation meetings are held so as to soften the parties in the conflict and get them to make decisions on the minor matters before tackling the main and difficult issues of the conflict.

The light strategies are very important since they engage the affected parties in making minor decisions for example the venue etc and in doing so they are therapeutic in improving the relationships among or between the involved parties. Light strategies open communication amongst the parties and enable them to view each other as human beings with needs and talking or chatting with each other fosters to bring about healthy communication and even understanding. It also allows for more freedom to the parties and it is more open-minded, open-ended and fluid.

Moderate strategies

These are also referred to as medium strategies and include formulation, structuring of the agenda, suggesting different ways of looking at and addressing issues, proposing draft solutions and so on. In formulation, various strategies or road maps to employ so as to

provide a common understanding of the problem are put down. This requires a lot of informed innovation on the part of the formulator(s) since they must come up with workable ideas to implement in the mediation of each conflict.

These strategies/formulas must be conceptualized and designed at the negotiating table and also outside the table but which will ultimately affect the outcome of the negotiating table. Setting of the agenda, viewing ways to address the existing issues, suggesting possible solutions and inducing compromises are all part of the moderate strategies.

It should be noted that not all conflicts would need the exact formulas to resolve the existing problems even if the mediation was repeated in the same circumstances or environment. This is because the conflicts are dynamic and have to be understood as such. All participants in the conflict resolution process must be well acquainted with the details necessary to understand the conflict cycle, the system and players involved and so on in order that they may employ the right measures or strategies.

Moderate strategies are useful when their condition are more favourable to resolution for instance when the parties are hostile, distrustful of each other or when the parties are far from each other and are not motivated to achieve a peaceful outcome.

Heavy Strategies

These are useful when the parties are unable to negotiate or reach an agreement hence the mediator is forced to use manipulative and controlling strategies so as to exert pressure on the parties to reach an agreement, concession or compromise. These hard strategies consist of the mediator issuing threats, inducements, giving incentives, pressurizing the parties to compromise or concede and even use of force. They may also involve argumentation and/or compromise as a means of adjusting states' interrelationship and views of each another, as well as a tool for reaching mutual agreements which may

themselves reflect elements of persuasion or coercion.⁸ This was adopted by Kofi Annan, the chief mediator of the Kenyan 2008 mediation process, when he threatened to entirely walk out and abandon the mediation process if the parties did not cooperate. Annan issued several other ultimatums since he enjoyed the support of Kenya's largest development partners like the USA and the UK.

Heavy strategies are based on manipulation, which requires a mediator to use the available leverage which may be in the form of influence or power so as to attain an agreement in the mediation. This is mainly employed to the parties who are not willing to reach an agreement or continue dialogue with each other. The mediator in this case would enforce whatever is available so as to make the parties come up with an agreement. Kochan notes that when the conditions are ripe, a settlement/ agreement may not occur unless the mediator engages in manipulative tactics.⁹

Tracks of diplomacy and the strategies that they adopt

Light Strategies	Moderate Strategies	Heavy Strategies
	Track I	Track I
Track II	Track II	
Track One and a half		Track One and a half

Nevertheless, it must not be forgotten that track I negotiators and mediators may bring considerable influence, concrete incentives, and other resources to the negotiations. This may include substantial positive incentives ("carrots") such as humanitarian aid, weapons sales, and trade relations. Such incentives may include offering additional military

⁸ Said, A.S., Lerche, Jr., C.O. & Lerche III, C.O. (1995). Concepts of international politics in global perspective . Englewood Cliffs, New Jersey: Prentice Hall. Pg88

⁹ Kochan, T. A. 1981. Step-by-step in the Middle East from the perspective of the labor mediation process. In Dynamics of third party intervention: Kissinger in the Middle East, edited by J. Z. Rubin, 122-35. New York: Praeger pp 126

support to a party in the conflict thereby providing further inducements to the opposing sides and the mediator to reach a resolution. In addition they may also providing political support to a party in the conflict thereby demonstrating an international backing of one of the warring parties or offering financial support through positive or negative incentives thereby intending to sway one party in the negotiation process.

On the other hand, track II diplomacy has come to be used more broadly so as to encompass processes such as problem-solving workshops, dialogues, cultural and scientific exchanges, travelling artists, sports teams, or any other contacts between people whose groups are currently engaged in an intractable conflict. Unofficial diplomacy has been seen to give voice to silenced or marginalized moderate perspectives in the public discourse.

Track II interventions bring together non-official, but influential members of the conflicting parties for direct, private interaction with joint analysis of the conflict and joint problem-solving. The intermediaries are typically knowledgeable and skilled scholars/practitioners who are impartial and whose training and expertise enable them to facilitate productive dialogue and problem-solving between the parties¹⁰.

The participants in these efforts, however, are not officials or members of negotiating teams, but rather "politically involved and often politically influential members" of conflicting societies¹¹. They may be parliamentarians, leaders, and activists of political movements, journalists, members of think tanks, academics; people who are within the mainstream of their societies and close to the political centre. Their unofficial position,

¹⁰ Fisher, R.J.& Keashly, Loreleigh. "The Potential Complementarity of Mediation and Consultation Within a Contingency Model of Third Party Consultation." *The Journal of Peace Research*, 28, 1, (1991): 29-42.

¹¹ Kelman, Herbert C., Social-Psychological Dimensions of International Conflict. In J. Lewis Rasmussen & William I. Zartman (Eds), *Peacemaking in International Conflicts: Methods and Techniques*. (Herndon, VA: USIP Press, 1997)

along with the academic setting in which the meetings are conducted, permits them greater freedom to explore alternative perspectives and formulate new joint ideas¹²

The best known and most developed of the Track II models is the interactive problem-solving workshop developed by Saunders which is essentially a public peace process which involves workshops which seek to engage representative citizens from the conflicting parties in designing steps to be taken in the political arena to change perceptions and stereotypes, to create a sense that peace might be possible, and to involve more and more of their compatriots¹³. An example of this has been applied in the Inter-Tajik Dialogue which began in 1993 under the auspices of the Dartmouth Conference Regional Task Force. Workshops have been credited with contributing to the breakthrough achieved in the Oslo Accord of September 1993 by developing cadres prepared to negotiate productively, by providing substantive inputs.

As accurately observed by Keashly and Fisher as well as Bloomfield et al, a mediator's activities for a successful mediation are heavily based on whether or not leverage is used.¹⁴ The heavy strategies employed by track I diplomacy include issuing threats in form of sanctions and so on, also issuing bribes, exerting pressure parties to concede or reach a compromise or agreement, use of force is also not entirely ruled out. At each level of interaction, the types of track I diplomacy interactions range from written communication, to formal meetings, to casual conversations. Many official negotiations involve a combination of forms of interaction. Written documents relating to an agreement may be exchanged,

¹² Kaye, D.D. "Track Two Diplomacy and Regional Security in the Middle East." *International Negotiation: A Journal of Theory and Practice*, 6,1,(2001): 49-77.

¹³ Saunders, Harold H. & Slim, Rana H., *The Inter-Tajik Dialogue: From Civil War Towards Civil Society* (Conciliation Resources, 1993).

sensitivities and perspectives of the other side) and by creating a better political atmosphere for negotiation.

¹⁴ Bloomfield, D. et al. 1998. *Negotiation processes. In Democracy and deep rooted conflict: Options for negotiators*, edited by Peter Harris and Benjamin Reilly, 59-120. Stockholm, Sweden: International Institute for Democracy and Electoral Assistance (IDEA).

diplomats may meet to discuss draft agreements formally, and informal side conversations during breaks may bring an additional component to the negotiations¹⁵.

Depending on the existing power structures, additional support may be provided to one of the two equally powerful sides, thereby creating asymmetry between the parties in the negotiations. Conversely, a supportive state can also provide power to an otherwise weaker party thereby creating symmetry in the negotiations. States will unite or unilaterally act to provide international support for a group or party in the conflict in the form of political, military or financial support.

During the peacemaking process this additional support provides power to the opposing sides through for example, offering additional military support to a party in the conflict thereby providing further inducements to the opposing sides and the mediator to reach a resolution; providing political support to a party in the conflict thereby demonstrating an international backing of one of the warring parties or even offering financial support through positive or negative incentives thereby intending to sway one party in the negotiation process.

In addition, supporters act as the go-between for the conflicting sides. Track I diplomats offer legitimacy to the contending parties without the parties themselves losing face or becoming involved in the negotiation process before each party is ready to commit to an agreement.

Similarities and differences between Track I and Track II diplomacy

Both tracks of diplomacy aim at ending conflict and bringing about a peaceful coexistence between and among the conflicting parties. They also wish to bring this peaceful coexistence to the affected parties in the conflict.

Both tracks of diplomacy are richly endowed with resources which enable them effectively manage conflict.

Differences between Track I and Track II diplomacy

Track I diplomacy

- Formal and Official
- Focuses on reaching a ceasefire/settlement
- does not address human social values
- holds direct negotiations at the negotiating table with the conflicting parties

Track II diplomacy

- Informal and unofficial
- Focuses on resolving the root causes of the conflict
- affects intangible factors such as attitudes and relationships
- holds workshops, seminars, dialogues with other stakeholders

A major difference between track I and track II diplomacy when resolving a conflict is the aim or target. Track I diplomacy aims and works at achieving or making a formal agreement acceptable to both parties so that they can end the conflict. As detailed in this paper, track I diplomacy works to accomplish a ceasefire or settlement. It is accurate to say that track I diplomacy measures are much more short term compared to those of track II diplomacy.

Track II diplomacy activities are long-term and aim at creating a peaceful existence among those affected by the conflict which is usually the people in the grassroots. Their activities are more humanitarian and inclusive and are geared towards reconciling relationships amongst the people in the grassroots. It is for this reason that track II diplomacy activities take a much longer time since it takes time for humans to heal and forgive the hurt they endured and live peacefully with those who they viewed as their enemies during the conflict.

In many cases, participants note that workshops clarify misinformation about the other side, and help them understand that the other community, like their own, has suffered in the conflict. The development of an empathetic understanding of the experiences, perspectives, and needs of the other side forms an initial basis for trust. The most commonly observed change in informal diplomacy is the breaking down of negative stereotypes and generalizations of the other side. These enemy images serve both as tools for mobilizing public resources in support of policy, and as psychological constructs that enable leaders to justify violence and confrontation against another group. Participants develop a deep understanding of the other's intentions and rationale for policies and behaviour, their political culture and decision-making context.¹⁶

The ground rules, structure, and venue for unofficial discussions also makes possible a kind of communication that is generally not feasible among parties in intractable conflicts. In unofficial intermediation, participants exchange personal stories about their experiences with the conflict. They begin to analyze the conflict in a structured way, delving beneath positions and arguments to understand interests, needs, fears, concerns, priorities, constraints, and values. Participants begin to be aware of the ways that their language contributes to mutual mistrust because it may be viewed as offensive, disrespectful, or threatening by the other side. They begin to develop a de-escalatory language that contributes to creating an environment in which they can communicate and solve problems more effectively. This is the basis for development of a working trust between the sides that permits joint analysis and joint problem solving to overcome barriers to settlement.

Unofficial intermediation also helps participants transform their perceptions of the conflict in ways that open space for negotiation. It facilitates mutual understanding and

¹⁶ Ibid Saunders and Rana., *The Inter-Tajik Dialogue: From Civil War Towards Civil Society* (Conciliation Resources, 1993).

acceptance of concerns about survival and identity and transforms people's win-lose outlook on the conflict¹⁷. Unofficial intermediation also addresses the psychological and social dimensions of the conflict. Participants identify underlying needs, values, and interests that are compatible and that can form the basis for a new definition of a common problem that the two sides share an interest in solving. As a result of deeper understanding of the other side's needs, they also develop a greater openness to abandoning previous non-negotiable positions¹⁸.

Participants of track II activities usually report a greater hope and confidence that joint solutions can be found therein and a greater willingness to engage with the other side. For example, participants in a dialogue facilitated by Saunders report that the dialogue helped them gain a new understanding of the sources of conflict and helped them moderate their own positions¹⁹. Even where "non-negotiable" gaps persist, the empathy and mutual understanding that unofficial processes facilitate make it easier for the parties to work together to find compromises²⁰. Many unofficial initiatives have gone beyond understanding and dialogue to "acting together" to have a concrete impact on changing the relationship between the parties²¹. Unofficial processes can generate creative ideas for settlement that cannot be raised in official negotiations.

The transformation of attitudes and communication is inextricably tied to the establishment of deep relationships of mutual trust among participants in unofficial processes. Being with the "enemy" at breakfast, in the meetings themselves, and at the bar at

¹⁷ Rothman, Jay & Olson, Marie L. "From Interests to Identities: Towards a New Emphasis in Interactive Conflict Resolution." *Journal of Peace Research*, 38,3,(2001): 289-306.; Pearson, Frederic S. "Dimensions of Conflict Resolution in Identity-Based Disputes." *Journal of Peace Research*, 38,3,(2001): 275-288.

¹⁸ Meyer, 2002; Kaye, Dalia Dassa "Track Two Diplomacy and Regional Security in the Middle East." *International Negotiation: A Journal of Theory and Practice*, 6,1,(2001): 49-77.

¹⁹ Op Cit Saunders and Rana., *The Inter-Tajik Dialogue: From Civil War Towards Civil Society* (Conciliation Resources, 1993).

²⁰ Deutsch, Morton "Competition and Cooperation," in *The Handbook of Conflict Resolution: Theory and Practice*, eds. Coleman, Peter T. & Deutsch, Morton (San Francisco: Jossey-Bass Publishers, 2000).

²¹ Chufrin, G.I. & Saunders, H.H. "A Public Peace Process." *Negotiation Journal*, 9,2, (1993):155-177.

night, re-humanizes the conflict and helps participants recognize that they share many fears, needs, and concerns. While this new found trust, and in some cases friendship, does not always extend beyond the boundaries of the workshop to the "other side" as a whole, these personal relationships are critical to developing a process for coming to the table and dealing with the hurdles in negotiation.²²

Track II diplomacy or unofficial diplomacy is also a forum for nurturing cadres able to negotiate effectively with the "other" and resolve intractable issues when the window of opportunity opens²³. Unofficial intermediation facilitates the formation of "coalitions across conflict lines" that can help organize and strengthen the "negotiating middle" and give public voice to previously silenced perspectives for moderation. In addition to bolstering the influence of pro-negotiation elements within each side, unofficial diplomacy also gives voice to silenced or marginalized moderate perspectives in the public discourse. An example of this is in Cyprus where powerful norms of group loyalty and cohesiveness previously made expression of views that the enemy may not be as bad, aggressive, or inflexible as assumed a taboo.²⁴ More recently, bi-communal meetings have become uncontroversial, and "bi-communal rapprochement" (reconciliation) has now become part of the public vocabulary and public debate in the mainstream media and political circles.

The category to which the unofficial interactions of the official representatives of states belongs to has been addressed by Chigas who states that, 'track one and a half intermediation typically involves unofficial actors (former government officials) who intervene between official government representatives to promote a peaceful resolution of

²² Lieberfeld, D. "Evaluating the Contributions of Track-Two Diplomacy to Conflict Termination in South Africa." *Journal of Peace Research*, 39,3,(2002): 355-372.

²³ Ibid Lieberfeld, D. "Evaluating the Contributions of Track-Two Diplomacy to Conflict Termination in South Africa.",(2002): 368.

²⁴ Op Cit Lieberfeld, D. "Evaluating the Contributions of Track-Two Diplomacy to Conflict Termination in South Africa." *Journal of Peace Research*, 39,3,(2002): 355-372.

conflict.²⁵ For example, when U.S. President Jimmy Carter negotiated the Camp David Accords with Israeli Prime Minister Menachem Begin and Egyptian President Anwar Sadat in 1978, a written document resulted from a combination of formal meetings and significant informal personal discussions that Carter held with Begin and with Sadat.

Track one and a half holds interactive and consultative dialogues among key individuals to the parties in conflict who are brought together in their personal capacities, rather than as representatives of their side, for direct, private interaction. The meetings are low-key, closed to the public, and non-binding. Participants share their perceptions and concerns, focusing on the interests and basic needs underlying their positions, jointly analyze the underlying issues and their relationship, and jointly develop ideas for resolution.

These dialogues are designed to promote relationship and trust-building across conflict lines, develop lines of communication, and explore options that could meet both sides' interests and needs. An example of such dialogues is seen in a project²⁶ which brought together members of the negotiating teams of both conflicting sides and other influential actors for a series of facilitated joint brainstorming meetings over five years. Participants were asked to talk about their own experiences, interests, needs, and fears and listen to and explore those of the other side. The improved relationships and understanding as well as the concrete ideas that were developed in these sessions significantly improved both the tone and content of the official negotiations.²⁷

Track one-and-a-half diplomacy may also involve official third-party actors who initiate or facilitate discussions among non-official representatives of the conflicting parties

²⁵ Chigas, D. "Track II (Citizen) Diplomacy." *Beyond Intractability*. Eds. Guy Burgess and Heidi Burgess. Conflict Research Consortium, University of Colorado, Boulder. 2003 .

²⁶ The "Georgia-South Ossetia Dialogue Project," undertaken by the Conflict Management Group in partnership with the Norwegian Refugee Council, 2002

²⁷ Allen Nan, Susan, "Partnering for Peace: Conflict Management Group and Norwegian Refugee Council Collaborating on the Georgian-South Ossetian Dialogue Project." Confidential Paper for the Reflecting on Peace Practices Project, 2000.

such as academics or businesspeople, in order to stimulate progress in official negotiations²⁸. An example of this is seen when the Norwegian Foreign Ministry joined with the non-governmental research organization, the Norwegian Institute for Applied Social Science, to facilitate the "Oslo Channel."

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Chapter 3: The Kenya 2007-2008 Post Election Violent Conflict

An electoral process is an alternative to violence as it is a means of achieving governance. It is when an electoral process is perceived as unfair, unresponsive, or corrupt, that its political legitimacy is compromised and stakeholders are motivated to go outside the established norms to achieve their objectives and thus electoral conflict and violence become tactics in political competition¹.

Patrick Quantin defines electoral violence as a 'deviant or unconventional form of political participation'. He adds that the pacification of elections depends on their organisation by functioning and accepted institutions. He adds that a second form of 'electoral violence' is where violence is used so as to prevent the elections from being held under the existing rules². This is the pre-election violence. However, the electoral violence evidenced in Kenya was not pre-electoral but rather post-electoral.

Electoral violence by definition has to be seen as an activity motivated by an attempt to affect the results of the elections which may be by either manipulating the electoral procedures and participation or contesting the legitimacy of the results. It might involve voters' and candidates' intimidation, killings, attacks against their property, forceful displacement, unlawful detentions and rioting. The timing of the violence (before, during or after the elections) relates to the chosen modes: displacement of voters taking place before elections and violent riots contesting the results after the elections³.

Before the elections, voters and candidates can be intimidated in order to affect their choices: they might face rather similar techniques as punishments after the

¹ Fischer, J. Electoral Conflict and Violence: A Strategy for Study and Prevention, IFES White Paper, 2002 p 2.

² Quantin, P. (1998), 'Pour une analyse comparative des élections africaines', *Politique Africaine* 69, pp. 13-26: 22.

³ Basedau M., Erdmann G. and Mehler A. (eds) *Votes, Money and Violence: Political parties and Elections in Sub-saharan Africa*. Nordiska Afrikainstitutet, Sweden, University of Kwazulu-Natal:South Africa 2007 p 227.

elections. Quite paradoxically the actual polling, which is the most keenly monitored phase of the elections, is often the most peaceful period⁴. According to Basedau et al, multiparty electoral competition is by nature not peaceful. It has to be made peaceful and in achieving this, independent electoral commissions carefully design the electoral system and monitor the situation even after the elections⁵.

Kenya suffered its worst seen and recorded electoral violence as an aftermath of the disputed Presidential election of 27th December 2007, which was the fourth since the country's return to multiparty politics in 1992. In just a matter of weeks, Kenya was transformed from one of Africa's most stable democracies to a place of total chaos. The said elections contributed to the belief by many like Collier and Rohner that elections in African countries such as Kenya have tended to significantly increase proneness to civil war and various other manifestations of violence⁶.

In the general elections of 2002, all the opposition parties for the first time united under the National Rainbow Coalition Party (NARC) and stood behind a single presidential candidate, Mwai Kibaki. Kibaki won the presidential elections by defeating KANU's presidential candidate Uhuru Kenyatta. Some like Dercon and Gutiérrez-Romero believe that it was advantageous that the two presidential candidates (of the NARC and KANU parties) were from the same ethnic group (Kikuyu). The election is thus believed to have focused on which party would bring the most prosperity to the country forgetting tribalistic agendas⁷.

Mwai Kibaki's Presidential election success in 2002 was by international observers declared free, fair and the most peaceful election that Kenya had ever had.

⁴ Ibid Basedau M., Erdmann G. and Mehler A. (eds) *Votes, Money and Violence: Political parties and Elections in Sub-saharan Africa*. 2007 p 227.

⁵ Op Cit Basedau M., Erdmann G. and Mehler A. (eds) *Votes, Money and Violence: Political parties and Elections in Sub-saharan Africa*. 2007 p 249.

⁶ Collier, P. and Dominic R. (2008). *Democracy, Development, and Conflict*, *Journal of the European Economic Association*. 6(2-3): 531-40.

⁷ Dercon S. and Gutiérrez-Romero Roxana. *Triggers and Characteristics of the 2007 Kenyan Electoral Violence*. <http://www.csae.ox.ac.uk/workingpapers/pdfs/2010-12text.pdf>

This was hailed at the time as a step forward for Kenyan democracy⁸. A power sharing MOU agreement had been created in the NARC party in the 2002 Kenya national elections. However the agreement in the MOU to share power within the cabinet was not actualized as upon acceding to power, Kibaki appointed his fellow tribesmen to government positions, thus tribal bias which led to discrimination of many people of other tribes who were more qualified⁹.

Many who were left out of power as a result of the failed power-sharing MOU in 2002 under the NARC party formed the Orange Democratic Movement (ODM) to vie in the 2007 Kenyan national elections. Well before the 2007 elections, some ODM leaders fell out with each other and thus the formation of the Orange Democratic Movement of Kenya (ODM-Kenya) which was led by Kalonzo Musyoka and which enjoyed the support of the Kamba community. The original ODM remained strong and was largely comprised of a tribal alliance between the Kalenjin, Luhyas and Luos.

Other ethnic groups that did not have a major presidential candidate contending in the election seem to have voted for one of the candidates in a block: The Luhyas and Kalenjins primarily supported Odinga, while the Merus and Embus supported Kibaki. Mwai Kibaki and the Kikuyu in power formed a coalition of other small parties and called it the Party of National Unity (PNU). There were 108 parties vying for 210 seats at the parliamentary level, with three major candidates at the presidential level: Mwai Kibaki representing PNU, Raila Odinga representing ODM, and Kalonzo Musyoka representing ODM-Kenya.

The pre-election polls conducted and published through the media showed that ODM was in the lead. However, when the presidential election results announced by the

⁸ Oyugi, W. O. (1997). Ethnicity in the electoral process: The 1992 general elections in Kenya, *African Journal of Political Science*, 2(1): 41-69.

⁹ Mutua, M. *Kenya's quest for democracy: taming the leviathan*. (London: Lynne Rienner Publishers, 2008) p 285.

Electoral Commission of Kenya (ECK) indicated both a rapid disintegration of Odinga's large lead and a 2.5 percent margin between the two leading candidates Odinga and Kibaki, suspicions of tampering was high since ODM had won ninety-nine seats at the parliamentary level to the PNU's forty three. Finally, the ECK chairman announced that Kibaki under PNU had won the elections and not Raila Odinga. Most international observers noted that there had been definite irregularities in the tabulation of the presidential vote and in reporting it, even though the conduct of the ECK during a large portion of the electoral process had not raised serious concerns.¹⁰

In any event, it is questionable whether either side could have won the 51% majority needed to govern Kenya alone according to the then chairman of the electoral commission, Mr. Samuel Kivuitu. On 2 January 2009 Kivuitu openly admitted "I do not know whether Kibaki won the election"¹¹. Kivuitu also revealed that he was put under pressure by "some PNU and ODM-Kenya leaders" by calling him frequently and asking him to announce the results immediately. Kivuitu agreed to take the presidential election winner's certificate to the State House after "some people threatened to collect it..." and to his surprise "the Chief Justice was already there ready to swear-in Kibaki". Kivuitu says that he 'agreed to announce the results because the ECK had no legal mandate to investigate complaints raised by the opposition immediately. It was a matter for the courts to investigate the irregularities'.

The Opposition leader, Raila Odinga and his supporters thus rejected the declared victory of Mwai Kibaki, alleging it was the result of rampant rigging. Barred from peacefully protesting in public, many youth allied to the ODM party violently

¹⁰ Joel D. Barkan, "Hearing on the Immediate and Underlying Causes and Consequences of Flawed Democracy in Kenya," Testimony, Prepared for the Senate Foreign Relations Committee's Subcommittee on African Affairs, February 7, 2008, p. 3.

¹¹ Ongiri, I. (2008). Kenya: I Acted Under Pressure, Says Kivuitu, The Standard, January 2.

reacted after the announcement was made of the questionable Kibaki victory¹². They looted open shops in the city centre and also set ablaze to cars in the city. They also lit fires in on the roads in the city. Nevertheless, following the disputed ECK's declaration Kibaki was right away sworn in for his second term. Cries and doubts for a stolen election were immediately shared by the ODM party and international electoral observers¹³.

Kibaki after being sworn in went into a silence mode without being seen or heard in public. Two weeks after his swearing in, he proceeded to appoint his cabinet. It was a shock to many when he announced his Vice President to be none else but his election rival, Kalonzo Musyoka of ODM-Kenya. This move created a central-eastern alliance¹⁴ and further fueled violence in the Rift Valley, which erupted again in protest at these exclusionary move. After forming his government, Kibaki returned to his silence mode. He however made his presence felt by use of control by force and determination, flooding the streets with security forces, and issuing a ban on media broadcasts¹⁵.

The ordeal of the disputed election reduced trust across ethnic groups, a key element of social capital among ethnic groups and communities. Social capital means the shared trust and norms that arise from informal social networks which have a consequent effect on expectations and behaviour¹⁶. International experience has shown that in situations where (ethnic) groups distrust each other and are afraid of being victimized, this fear might drive them to resort to violence first in a pre-emptive move

¹² Cussac, A. (2008). 'Kibaki Tena? The Challenges of a Campaign' Lafargue, J. (ed.). *The general elections in Kenya, 2007*. (pp. 55-104). Dar es Salaam: Mkuki na Nyota Publishersp 60

¹³ Dercon S. and Gutiérrez-Romero Roxana. Triggers and Characteristics of the 2007 Kenyan Electoral Violence. <http://www.csae.ox.ac.uk/workingpapers/pdfs/2010-12text.pdf>

¹⁴ Joel D. Barkan, "Breaking the Stalemate in Kenya," Online Africa Policy Forum, January 8, 2008, available at <http://forums.csis.org/africa/>

¹⁵ Lindenmayer E and Kaye J.L, *A Choice for Peace? The Story of Forty-One Days of Mediation in Kenya*, (New York: International Peace Institute, August 2009) p 5

¹⁶ Durlauf, S.N and Fafchamps, M. (2004). *Social capital*, NBER, working paper, 10485, Cambridge, MA, NBER, p 5.

to minimize damage¹⁷. Judging from the escalating violence many Kenyans and International observers were afraid of possible acts of ethnic cleansing or crimes against humanity¹⁸.

The violence often took on the appearance of being ethnic in nature given that the government was traditionally controlled by one ethnic group (to the detriment of others) and hence poverty was often aligned with ethnicity. This was proven by the fact that much of the violence in the slums around Nairobi and other parts of the country was mainly motivated by poverty and unemployment especially among the youth or the existing large economic disparity among Kenyans. According to Coullier and Addison, poverty as a proxy of relative deprivation and grievance can motivate people to be violent. There is international evidence that grievances in terms of resource deprivation, and poverty can lead to rebellion, protest and civil conflict¹⁹.

There is indeed a well-established association between poverty (measured by such indicators as GNP per capita, life expectancy and literacy, for instance) and political violence²⁰. Because of poverty, less serious disputes, like those concerning electoral procedures, can lead to open violence. People who have little to lose are easily mobilised to violent actions²¹. Severe poverty and thus vast disparities in wealth was and still is engrained in most Kenyan societies hence it would be expected that the people most affected by violence were either the poor or those living in poorer areas.

¹⁷ Bardhan, P. (1997). Method in the madness? A political-economy analysis of the ethnic conflicts in less developed countries, *World Development*, 25(9): 1381-98.

¹⁸ Lindenmayer E and Kaye J.L, *A Choice for Peace? The Story of Forty-One Days of Mediation in Kenya*, (New York: International Peace Institute, August 2009) p 1.

¹⁹ Addison, T. (1998). Rebuilding post-conflict Africa: Reconstruction and reform. Helsinki: Wider/United Nations University, Collier, P. (2000). Rebellion as quasi-criminal activity, *Journal of Conflict Resolution*, 44(6): 839-53.

²⁰ Gurr, T.R. and R. Duvall (1973), 'Civil Conflict in the 1960s', *Comparative Political Studies* 6, p.135-170. and Collier, P. and A. Hoeffler (1998), *On Economic Causes of Civil War*. Washington: World Bank.

²¹ Basedau M., Erdmann G. and Mehler A. (eds) *Votes, Money and Violence: Political parties and Elections in Sub-saharan Africa*. Nordiska Afrikainstitutet, Sweden, University of Kwazulu-Natal:South Africa 2007 p 227.

It is evident that some of the actors in this violence were easily manipulated young people and criminal groups that had nothing to lose from engaging in and sustaining the violence. The latter persisted in the violence because of their many looting sprees of shops and supermarkets. The police retaliated by engulfing the city with tear gas to disorient them but this did not seem to be very effective as they continued with the violence.

January 2008 was dominated by demonstrations with the slogan 'No Raila, no peace!' as the ODM called several times for nationwide demonstrations aimed at forcing the already sworn in president to resign²². In the Rift Valley, revenge attacks which began in Nakuru in late January rose in intensity and spread along the main highway to affect the towns of Naivasha, Limuru and Kikuyu in the Central province. In Nairobi, the police tried to stop demonstrations with water cannon, teargas, arrests and barricades between slums and wealthier suburbs resulting in more clashes²³ and more alleged cases of people killed by police bullets. Police shot a number of demonstrators, including a few in front of TV news cameras, causing more violence and protests from human rights activists who claimed that the police killing demonstrators were pure acts of excessive abuse of power and impunity.²⁴ The violence continued until early February 2008, by which time 1,000 people were thought to have died²⁵

While this was not the first time in Kenya's history that elections had been accompanied by violence, but it was certainly the first time that the violence had been so severe, widespread, and with such devastating consequences. Kenyans turned against their fellow Kenyans in cold blood. In all, more than More than 1,000 people are

²² De Smedt, J. (2009). 'No Raila, no peace!' Big man politics and elections violence at the Kibera grassroots, *African Affairs*, 108/433, 581-98.

²³ Ibid De Smedt, J. (2009). 'No Raila, no peace!' Big man politics and elections violence at the Kibera grassroots, *African Affairs*, 108/433, 581-98.

²⁴ Interview with Wafula Nabutola, former chairman of the Nairobi Central Business Association

²⁵ Ibid BBC News, "Kenya to Probe Hate Speech."

thought to have died and at least 600,000 were displaced²⁶ and around 42,000 houses and many businesses were looted or destroyed. A significant number of cases of sexual violence were also reported.²⁷ These were disastrous consequences for the economy, especially due to the hard-hit tourist industry.²⁸

Many Kenyans had earlier believed that those from Kibaki's Kikuyu ethnic group living in Rift Valley province as well as those living in town of Kisumu, which is thought to be Raila's home turf, were the main targets of the violence. However, this belief was challenged since a great number of recorded victims came from at least four other ethnic groups which include the Luo (in Nairobi), the Kalenjin (in Nakuru and Naivasha), the Luhya and the Kisii in less concentrated groups across the country.

Protestors in Mombasa town took to the streets to protest the electoral manipulations and aired their own grievances, though ethnic tensions played much less of a role in these protests. Looters took advantage of these protests to strike a number of stores in Mombasa. The slums of Nairobi saw some of the worst violence as some of these ethnically-motivated attacks were fuelled by simple outrage at extreme poverty and some the actions of criminal gangs. The violence continued sporadically for several months particularly in the Rift Valley.

According a report done on post-election violence in Kenya by a United Nations human rights team, three distinct but sometimes concurrent patterns of violence are identified as follows: spontaneous, organized and retaliatory. The spontaneous violence began immediately after the announcement of the contested election results, when opposition supporters took to the streets in protest, especially in Kisumu and the Nairobi slum areas. When the election results were announced, live broadcasts of the

²⁶ Sheila Mwiandi, "Moving Beyond Relief: The Challenges of Settling Kenya's Internally Displaced," USIP Peace Briefing (Washington, DC: USIP, August 2008)p 15

²⁷ Report from OHCHR Fact-finding Mission to Kenya, 6-28 February 2008

²⁸ Mwiandi, S, "Moving Beyond Relief: The Challenges of Settling Kenya's Internally Displaced," *USIP Peace Briefing* (Washington, DC: USIP, August 2008)

inconsistencies between the numbers announced at the central level and those at the local level, accompanied by hate speech on vernacular radio²⁹ targeting various ethnic groups, helped spread the message of hate and mistrust among Kenyans and the violence. By January 15th, over 500 people were dead and more than 250,000 displaced.

The seemingly organized pattern of violence consisted of what seemed to be organised attacks in the Rift Valley which appeared to have targeted non-Kalenjin communities and those perceived as opponents of the opposition ODM party, including the Kikuyu, Kisii and Luyha communities. Inquiries undertaken by human-rights bodies such as Human Rights Watch revealed that much of the violence was organized in nature³⁰. Well-known gangs that had been financed and organized by businesses and political groups in previous elections, such as the Mungiki, were apparently being armed with machetes and other weapons before the elections and later, even as negotiations began³¹. The Mungiki, drawn from a Kikuyu base, which has a reputation for using brutal methods of instilling terror and a long history of violence dating back to the 1980s, appears to have received support from elite members of Kenyan society and to have been prepared for the violence ahead of time. Non- Kikuyu gangs such as the so-called "Taliban" and "Baghdad Boys" largely Luo-based and the Saboat Land Defence Force of generally Kisii origin were also responsible for some of the more organized violence drawing on the large numbers of unemployed and disenfranchised youths³².

²⁹ BBC News, "Kenya to Probe Hate Speech," February 14, 2008, available at <http://news.bbc.co.uk/2/hi/africa/7245319.stm> .

³⁰ Human Rights Watch, "Ballots to Bullets: Organized Political Violence and Kenya's Crisis of Governance," (New York, March 2008).

³¹ IRIN News, "Kenya: Armed and Dangerous," February 22, 2008, available at www.irinnews.org/Report.aspx?ReportId=76896

³² Ibid Human Rights Watch March 2008

In retaliation violence, gangs of Kikuyu youths subsequently attacked non-Kikuyu groups in Naivasha, Nakuru and Mathare in an effort to retaliate the violence faced on their fellow tribesmen in the Rift Valley³³. In fact, a great majority of displaced people moved within the same constituency to areas where they had relatives or to neighbourhoods where there were more clusters of people from their ethnicity³⁴

A personal account is given of a Kenyan who saw his brand new car literally go up in flames during the time of the violence. He is however quick to note that he could only imagine the feelings of those who lost loved ones to death during the violence and is grateful that he is still alive. He and a majority of Kenyans felt betrayed since they had voted peacefully and yet the result was such magnitude of violence and yet the politicians were not willing to resolve the conflict. The hardest hit sectors during the violence, according to Nabutola, included communication since phone credit was not available in the shops and some shops were closed down due to the lootings and destruction of property. This affected everyone, both those within the city centre of Nairobi as well as those without³⁵. It also created a lot of panic since people could not communicate to each other so as find out of each others well being.

The economy was greatly affected since both foreign and domestic investment hit an all time low and the main foreign exchange earner which was tourism suffered a major blow especially when foreign countries issued travel advisories to their nationals against coming to Kenya. Small businesses in the city centre were also adversely affected since many were shut down because many people including customers opted to

³³ Report from OHCHR Fact-finding Mission to Kenya, 6-28 February 2008

³⁴ Dercon S. and Gutiérrez-Romero Roxana. Triggers and Characteristics of the 2007 Kenyan Electoral Violence. <http://www.csae.ox.ac.uk/workingpapers/pdfs/2010-12text.pdf>

³⁵ Interview with Wafula Nabutola, former chairman of the Nairobi Central Business Association

stay at home during the violence and the few small businesses open faced the threat of being looted or burnt down³⁶.

The transport sector was also greatly hampered since those participating in the violence put blockades on the roads and burnt any cars on the roads. Transportation of food and people suffered a halt during the violence which translated to shortage of food in the shops and thus many people were facing hunger. This Kenyan political crisis had exposed the East African region's "over reliance" on Kenya's transport infrastructure, especially the Mombasa port³⁷. The numerous blocked roads and vandalized rail lines in Kenya affected significantly the economy of the region. Fuel prices rose throughout East Africa.

The UN's Office for the Coordination of Humanitarian Affairs (OCHA) estimates that fuel costs in Uganda, Eastern Democratic Republic of Congo and Burundi rose by up to 50% as a consequence of the Kenyan crises. Fuel costs more than double in Rwanda causing shortages and prompting the government to institute fuel rationing. Trade networks were also disrupted especially for the landlocked economies of Uganda, Rwanda and Burundi, South Sudan and the Eastern Democratic Republic of Congo which rely on trade through the Kenyan port of Mombasa. More than 80% of Uganda's imports pass through the port of Mombasa, as do almost all of Rwanda's exports. According to the Uganda Manufacturers Association, manufacturers had lost \$43 USD million because of the delays, destruction of goods and slowed production caused by the Kenyan crisis³⁸.

Agricultural activity in Kenya was also seriously hampered as farmers moved away from their fields, posing long-terms risks for the country's food security which

³⁶ Interview with Elijah Agevi, Govenor of Kenya Private Sector Alliance (KEPSA) and Head of the Safer Nairobi Initiative (a joint collaboration between UN-HABITAT and the City Council of Nairobi)

³⁷ Kimani, M. (2008). 'East Africa feels blows of Kenyan crisis', *Africa Renewal*, 22(1): 3.

³⁸ Ibid Kimani, M. (2008). 'East Africa feels blows of Kenyan crisis', *Africa Renewal*, 22(1): 3.

was already threatened by drought and soaring fertiliser prices. In addition, the tea and flowers exports industries, in which Kenya is a main leader in the world market, were severely hit because their workers were displaced far from the fields. Ksoll et al estimate that flowers exports were reduced by 38% during the first quarter of 2008 because of electoral violence directly³⁹. The FAO reported less than 10% of land had been prepared for planting season by January 2008. Normally, at least 80% would have been planted by that time⁴⁰. The education and health sectors were also compromised by the large-scale displacement of professionals.

The tourism industry, the second highest foreign exchange earner after horticulture, was also affected as the violence occurred during what is typically the Kenyan peak holiday season⁴¹. A European diplomat who chooses to be anonymous recounts his experience during the Kenya 2007-2008 post election crisis. He said that the main concerns for the entire European diplomatic representations in Kenya were the stability of the country as well as the lives of Kenyans. According to him, insecurity was a major concern to their citizens who were tourists or business people in Kenya. The European countries' embassies as well as other diplomatic representations of other countries resorted to short term measures which included temporarily ceasing from any 'business as usual' activities for security reasons. This meant closing the embassies so that the locals would not have to risk their lives on the streets when reporting for work.

The primary concerns of the foreign representations at this moment were to make sure all their nationals in Kenya were safe and well protected. The said diplomat reveals that he and other diplomats even seriously considered contingency plans of

³⁹ Ksoll, C. Macchiavello, R., and Morjaria. A. (2009). *Guns and Roses: The Impact of the Kenyan Post-Election Violence on Flower Exporting Firms*. Working Paper 2009-06. Center for the Study of African Economies, Oxford University.

⁴⁰ Opcit Kimani, M. (2008). 'East Africa feels blows of Kenyan crisis', *Africa Renewal*, 22(1): 3

⁴¹ Dercon S. and Gutiérrez-Romero Roxana. Triggers and Characteristics of the 2007 Kenyan Electoral Violence. <http://www.csae.ox.ac.uk/workingpapers/pdfs/2010-12text.pdf>

evacuating their nationals from Kenya but later thought against the idea seeing that the transport system was already compromised by raging youth on the street who were burning almost everything they came in contact with⁴². However, foreign offices advised against travelling to Kenya unless absolutely essential, leading to a steep fall in number of tourists visiting the country.

Taking into account that 78% of Kenyans are Christians, the Church can and does play a key role in politics⁴³. However, during the post-election violence, one Kenyan notes that there was a great amount of polarization where the church was involved. According to him, the church was openly divided on political lines. The church clergy did not preach peace and neutrality but rather unfortunately led the 'flock' along political lines. This caused confusion amongst the flock which even led to hatred and mistrust amongst the followers of the two conflicting political parties⁴⁴.

It is important to note that this was not a simple election result dispute which erupted to active violence. The flawed elections may have been a trigger but not necessarily the cause of the violence. The election dispute was only a catalyst for an explosion of discontent and resentment due to the politics of dispossession which left the majority of the youth unemployed, 60 percent of the population living on less than \$1 a day, and the majority of the country's most fertile land in the hands of the families of the political and business elite⁴⁵.

There had been several issues which contributed to a long existing structural conflict in Kenya and it only took the election dispute to ignite violence to erupt. One of these issues was the constitution which was amended 28 times from 1963 to 1992, each

⁴² Interview with a Senior European diplomat from one of the European Union Member states

⁴³ Maupeu, H. (2008). Revisiting post-election violence. Lafargue, J. (Ed.). *The general elections in Kenya, 2007*. (pp. 187-223). Dar es Salaam: Mkuki na Nyota Publishers, Ltd.

⁴⁴ Interview with Wafula Nabutola, former chairman of the Nairobi Central Business Association (NCBDA) and member of the Rotarian Association, 5-5-2011

⁴⁵ Lindenmayer E and Kaye J.L, *A Choice for Peace? The Story of Forty-One Days of Mediation in Kenya*, (New York: International Peace Institute, August 2009) p 4

time limiting the freedom of its citizens and expanding the power of the executive and political elite. For instance, too much power was vested on the president. The system of the day saw many injustices including tribalism, nepotism, a culture of corruption and youth that had no legal recourse due to a weak judicial system.

Another underlying issue of the conflict was that of land. Over the years, there existed long and complex histories of land dealings among tribes whereby the members of the tribe in power were often unethically given or allowed to use land, frequently at the expense of other tribes. It all began with Jomo Kenyatta, Kenya's first president, who hailed from the Kikuyu tribe and who gave land to his tribesmen in the Rift Valley during his tenure (1963-1978). His successor Daniel Toroitich Arap Moi, Kenya's second president and who hailed from the Kalenjin community, also gave his tribesmen the Mau Forest land which is the lushest part of the Rift Valley during his tenure (1978-2002).

When Kibaki took over the presidency after Moi, he used his executive power to expel the Kalenjins from the Mau Forest in 2003, with most returning and arguing that they had a right to the land that "Moi gave them"⁴⁶. This expulsion, along with the promise of future expulsion attempts played a large part in the Kalenjin bands militantly evicting the Kikuyu from their homes in the Rift Valley, destroying their dwellings, and occasionally murdering those resisting these actions after the election results were announced in December 2007 declaring Kibaki as the winner⁴⁷.

Unemployment amongst the youth is another underlying issue of the conflict. Most youth suffered lack of employment within the previous Kibaki government and had even less hope for the future. The ODM claimed to understand this and harnessed

⁴⁶ Cussac, A. (2008). "Kibaki tena?" The challenges of a campaign Lafargue, J. (Ed.). *The general elections in Kenya, 2007*. (pp. 55-104). Dar es Salaam: Mkuki na Nyota Publishers, Ltd. p 78

⁴⁷ Ibid Cussac 2008 "Kibaki tena?" The challenges of a campaign Lafargue, J. (Ed.). *The general elections in Kenya, 2007*. p 88

the youth vote by organizing them to largely vote for ODM.⁴⁸ ODM pledged that upon victory, they would create jobs for these youth and thus eradicate the problem of unemployment. Those who voted for ODM, especially the many unemployed youth did so with change in mind and were thus very bitter with the outcome of the elections. They believed that with PNU out and ODM in power, their lives would change for the better.

Since the two conflicting parties Kibaki and Odinga, continued to refuse to engage in dialogue with the former insisting upon his rightful place as president of Kenya who would manage the crisis internally, while the latter stating that the election had been rigged and his win stolen away, a crisis was looming. Odinga and his allies added that they lacked confidence in the Kenyan judicial system and thus called for outsiders to solve the current predicament. They seemed to be quoting Bratton when they claimed that the failure to solve the looming election crisis was largely caused by having a weak electoral Commission susceptible to manipulation, incompetent judiciary and other institutions to sustain democracy⁴⁹. It became evident that this stalemate could not be ignored since violence had already erupted and was quickly spreading to many parts of the country and thus a mediation process was seen as the only timely solution to this crisis.

⁴⁸ Cussac, A. (2008). "Kibaki tena?" The challenges of a campaign Lafargue, J. (Ed.). *The general elections in Kenya, 2007*. (pp. 55-104). Dar es Salaam: Mkuki na Nyota Publishers, Ltd. p 92 and Mutua, M. (2008). *Kenya's quest for democracy: taming the leviathan*. London: Lynne Rienner Publishers.p 288

⁴⁹ Bratton, M. (2008). Vote buying and violence in Nigerian election campaigns, *Electoral Studies*, 27(4): 621-32.

Chapter 4: Dual Diplomacy in the Kenya 2008 Post Election Mediation Process

This chapter discusses the entire mediation process in Kenya in 2008 following the post election violence. Both formal and informal diplomacy were carried out simultaneously in response to the conflict which resorted to Violence after the 2007 Kenya Presidential elections. While the formal mediation process took place in a single location which was the Serena hotel in Nairobi, many informal groups held meetings countrywide and some including the same venue as the formal mediation.

The Mediation Process

A formal mediation process began in Kenya following the post election conflict on 22nd January 2008 which was three weeks after the post election violence erupted across Kenya. The mentioned mediation process was led by the Panel of Eminent African Personalities, consisting of former President Benjamin Mkapa of Tanzania, former South African First Lady Graça Machel, and former UN Secretary-General Kofi Annan as Chairperson. The Panel was charged with helping the parties to the conflict ensure that an escalation of the crisis was avoided and that the opportunity to bring about a sustainable peace was seized as soon as possible. The unique team was mandated by the African Union (AU) and relied on worldwide diplomatic support as well as the technical support of the United Nations, including the Department of Political Affairs (DPA), the United Nations Development Programme (UNDP), and United Nations Office in Nairobi (UNON), as well as the Geneva-based Centre for Humanitarian Dialogue (HD Centre).¹

The informal mediation process started well before the formal process led by the Panel of Eminent African Personalities, since violence following the 2007 elections saw a very concerned group of individual Kenyans come together. They were all greatly

¹ Lindenmayer E and Kaye J.L, *A Choice for Peace? The Story of Forty-One Days of Mediation in Kenya*, (New York: International Peace Institute, August 2009).

concerned by the lack of willingness of the principals (both PNU and ODM) to reach an agreement which would see a ceasefire yet the country was 'burning'. These concerned individuals were mainly from the middleclass and included business people, professionals, a few civil servants, religious figures, some government officials both retired and those still in practice and other individuals from various walks of life. They all came together and held meetings which served as an avenue of expressing their views and coming up with a united voice and demand for a speedy resolution of the violent conflict which threatened the livelihood of Kenyans.

The Pre-mediation Phase

Establishing a mediator for the formal mediation process was met with unilateral actions on behalf of both leaders at different moments, actions that proved that they were yet to agree on the need for mediation at all, let alone on who that mediator would be. On January 2, 2008, just days after violence erupted across the country, Nobel Peace Laureate Archbishop Desmond Tutu became the first senior foreign candidate for the post of mediator to arrive on the scene. His efforts were undertaken amid flying accusations of vote rigging on behalf of the PNU and of "ethnic cleansing" on behalf of the ODM and its supporters.

During the search for a formal mediator, track II efforts were also well underway. The informal sector countrywide resolved to hold meetings amongst themselves wherever they were. Several committees consisting of such like individuals were formed and met severally at Jacaranda hotel, the Holiday Inn hotel, Serena hotel and at the Nairobi Provincial Commissioner's (NPC) office in Nairobi. They resorted to using heavy strategies by putting pressure on the principals to dialogue and demanding for an immediate ceasefire by threatening to boycott on paying tax. This move did not enjoy any official backing but it enjoyed the peoples' goodwill. Some of these

individuals would go on air and demand for formal discussion between the two conflicting fronts.

Other track II diplomacy initiatives taking place at different venues countrywide included workshops, seminars, community dialogues and even chief barazas. One group of concerned Kenyans from the private sector branded themselves the name 'Concerned Citizens of Peace' and met daily at Serena hotel which was the same venue where the formal negotiations were taking place. Their meetings were however in another room which brought together individuals from all walks of life for the common agenda of realizing peace to a country which was burning.

Despite his impressive moral authority Desmond Tutu's intervention could not have changed the fact that the moment for engagement was simply "unripe" because Odinga firmly refused to engage in dialogue, while Kibaki was adamant that the only recourse for the opposition was through the courts, a lengthy process involving a system dominated by government allies which, it was perceived by the ODM, was unlikely to result in any "just" outcome.² The government continued to play down the need for international mediation, most likely realizing that mediation meant compromise, and compromise meant relinquishing power.

In the face of escalating violence, other candidates for the mediator position also began rushing to the scene. They included several heads of states and other diplomatic officials but were unfortunately unsuccessful in their quest to be mediators. At this point, African Union (AU) Chairman and Ghanaian President, John Kufuor personally wrote a letter to Kofi Annan, asking him to take on the role of AU Special Adviser and Chief Mediator of the Panel for the forthcoming mediation process. The decisive nature of this engagement was a crucial factor in avoiding further deterioration of the situation.

² Lindenmayer E and Kaye J.L, 'A Choice for Peace? The Story of Forty-One Days of Mediation in Kenya', (New York: International Peace Institute, August 2009).

Kufuor's selection of Kofi Annan was based on the fact that Annan had years of mediation experience, and was an internationally renowned figure with moral authority and a strong political reputation. He was seen to combine extensive political experience and unique negotiating skills with the ability to bring a wide pool of contacts to the negotiating table. Furthermore, having witnessed a number of tragedies in his UN career both as under-secretary general for peacekeeping operations and as Secretary-General of the UN, he was well aware of the implications another crisis would have for East Africa and the continent as a whole. Annan thus accepted the invitation since he felt a moral obligation to do whatever he could to prevent the country from spiralling out of control.

One of the committees in the track II diplomacy finally managed to get audience with one of the principal parties, Raila Odinga of ODM. Mr. Odinga agreed with them that the violence had to come to an end and a solution found expeditiously. Some ambassadors of foreign missions in Kenya held informal talks with the different negotiation teams involved in the formal mediation process in an effort to push for a speedy solution but this did not bear much fruit since the negotiation teams were very firm on their stands. Both Raila's and Kibaki's aids bore very of hard stands which made compromise almost an impossible dream³.

In the initial phases, Kofi Annan applied light strategies when he shuttled to and from Kibaki and Raila since they were not ready to meet face to face. After various attempts Annan succeeded to ripen the moment of mediation by bringing the two principals together in a closed meeting two on 24th January 2008. He pointed out the Mutually Hurting Stalemate (MHS) that existed in that particular conflict and thus pressed upon them for the need for genuine dialogue and the absolute imperative of putting an end to the violence. Annan insisted that this was an extraordinary situation

³ Interview with Wafula Nabutola, former chairman of the Nairobi Central Business Association (NCBDA) and member of the Rotarian Association

which needed an extraordinary solution, starting with a commitment from the leaders to work together.

He thus convinced the parties to agree to a face-to-face meeting, thereby recognizing each other formally, no longer as an enemy but as a negotiating partner. They held this meeting at the President's Office in Harambee house and had a private photo shoot. Thereafter they proceeded for a public photo shoot and presented their speeches and shook hands in front of the media and public, giving birth to the 'famous handshake'. The mentioned handshake was a great sign of hope to both track I and track II diplomacy that the conflict would be resolved soon. The two leaders and Kofi Annan all gave speeches where they urged all Kenyans to stop the violence and live in harmony with each other.

However, immediately after the speeches, ODM called a press conference and denounced the president's speech, especially when the President referred to himself as "the duly elected president". However, Annan managed to persuade Raila Odinga to call off the mass protests that were planned for that week, which would have not only heightened the impression of a crisis but also risked and seriously undermined the mediation effort still in its fragile first phase.

The famous handshake between the principles prompted many of the track II diplomacy formed committees to hold a meeting at the office of the Nairobi provincial commissioner so as to mobilize people who would be able to penetrate and spread the message of peace and calm in the grassroots. To effectively do this, they targeted women groups, youth groups and even social meeting joints like bars, chief barazas and churches. The message to be disseminated appealed for patience among Kenyans for a sustainable solution to the conflict at hand⁴.

⁴ Interview with Wafula Nabutola, former chairman of the Nairobi Central Business Association (NCBDA) and member of the Rotarian Association

The civil society as a whole was pivotal in creating an environment that was favourable for negotiations by preaching calm in the grassroots. This was a use of the light strategy since the civil society was active in improving relations and restoring trust among the different people in the society. This role would then stretch on after the formal mediation, where they would offer peace building and reconciliatory activities in the grassroots so as to bring about healing and forgiveness amongst Kenyans.

Even before the African Union intervention in Kenya of holding a formal mediation process, several diplomats came together and resolved to push for a debate between the principals. These diplomats even used third parties to talk to the principals in an effort to convince them to hold dialogues among themselves but were not successful⁵. The diplomats at times used the media to call for the principals to talk to each other. They largely supported the leader of the mediation team, Kofi Annan, and were ready to provide him with any assistance that he may have needed in terms of leverage. A number of ambassadors gave EU statements which basically called for a speedy resolution of the conflict⁶.

Annan applied moderate strategies by seeking and maintaining various contacts and networks with these foreign missions and other influential leaders so as to amass leverage and resources which would enable him adopt various strategies. An impartial and fully functioning secretariat to support the mediation panel and service the single mediation process was then formed in Nairobi. This secretariat would give technical support to the Panel during its work ensuring that all necessary resources were in place for the mediation process.

⁵ Interview with a Senior European diplomat from one of the European Union Member states

⁶ Interview with a Senior European diplomat from one of the European Union Member states

As a moderate strategy, an agenda was then formed which entailed the modalities for the negotiation, the structure and terms of reference of the Panel, and the Rules of Procedure. It was produced in close consultation with newly forming negotiating teams even before the formal negotiations were opened.

Several foreign missions, during the formal mediation process, maintained links with the civil society of Kenya which included non-governmental organisations (NGOs), community service organizations (CSOs), women groups and human rights activists⁷. Their interaction with these groups of the civil society included holding meetings where they would exchange ideas and seek to form solutions to the problems facing the society. Since these foreign missions could not interfere in internal affairs of the country, the civil society groups would seek the advice of these diplomatic missions. These efforts are an instance of the use of moderate strategies.

By the time the talks were formally opened at the National Assembly on January 29th 2008, the teams already had a common basis to work from and were able to adopt the mentioned agenda immediately and could begin working on addressing some of the essential items thanks to the preparatory groundwork that had been carried out by the secretariat. After the public “handshake” between Raila Odinga and Mwai Kibaki, rapid acceptance of the Road Map, as detailed below, was the second anticipated success.

Mediation Process

The Road Map was a moderate strategy which included four items namely: undertaking immediate action to stop violence and restore fundamental human rights and liberties; taking immediate measures to address the humanitarian crisis, promote reconciliation, healing, and restoration; overcoming the political crisis; and working on long-term issues and solutions such as poverty, inequality, and unemployment

⁷ Interview with a Senior European diplomat from one of the European Union Member states

(especially among the youth), as well as the need to confront impunity, tackle land reform, and consolidate national cohesion and transparency. In other words, the Road Map was a set of defractionized issues which consisted of both short term and long term issues to be addressed hence dual diplomacy was crucial in this particular conflict.

The principals had agreed to enter into dialogue and had also agreed to appoint team members to represent them in the negotiations. The PNU side was represented by Martha Karua, Minister of Justice and Constitutional affairs; Sam Onger, Minister of Education; Mutula Kilonzo, a lawyer and ODM-K's MP (the party of Vice President Kalonzo Musyoka) and Moses Wetangula, Minister for Foreign Affairs. The ODM side was represented by MPs including Musalia Mudavadi, William Ruto, Sally Kosgei, and James Orengo, who is also a lawyer.

Annan then laid a solid foundation for what would become one of the central components of his strategy: a single mediation, as well as the full and undivided support of the international community. He would only begin work once a unified support base had been formed, relying especially on prominent African figures, the US, and key European actors. He spoke extensively with leaders and key political actors around the world to bolster support for the process he was about to embark upon.

Another of his moderate strategy was that of dual diplomacy, where there would be an inclusive and transparent process, involving the civil society who included religious leaders, women's groups, and representatives from the business sector, Annan was able to organize meetings with these groups and keep them engaged and informed about the progress of the formal mediation process until the very end. One such meeting that he held was between Nabutola and his committee with the CEO of the Kenya Red Cross, Mr. Abbas. This meeting was aimed at appealing for the Kenya Red Cross to distribute food to various locations in Kenya where Kenyans were facing hunger as a

result of the massive displacement of people. Many in attendance at the meeting pledged to this cause thus arming the Kenya Red Cross with adequate food items for the displaced Kenyans. Agevi also recounts how he oversaw the contributions from the civil society who through 'Jamii Bora Initiative', a local NGO, provided sheets and construction materials and incentives to those affected by the violence⁸.

The formal mediation process adopted the use of "outsiders" as part of the dual diplomacy strategy in the mediating room. The outsiders input was given by organizations such as Kenya Red Cross Society (KRC) Research and the United Nations Development Programme (UNDP) representatives who gave a briefing on the situation on the ground reporting that 923 people had been killed and more than 250,000 displaced, with genuine protests rapidly shifting to activities by gangs and criminal groups that predated the election violence and across the country, people were still being forced to leave their homes.

The input of "experts" and "informed voices" was greatly relied on during the formal mediation process, at times to depoliticize discussions and keep them focused, or to prove that what felt like uncharted territory had actually been tried and tested, successfully, elsewhere. These experts were strategically asked to intervene at certain points to provide clarification within and around the formal negotiations. Among these experts included individuals from the KRC Research and UNDP who gave the statistical scene on the ground. Additionally, two of the experts called upon were from the Electoral Division at DPA and they advised the parties on the technicalities and the pros and cons of all the options that lay before them. The experts produced documents which clarified the issues around the choices of rerun, recount, and fresh elections. They also advised that a recount would require opening all 27,500 ballot boxes, a phenomenal

⁸ Interview with Elijah Agevi, Governor of Kenya Private Sector Alliance (KEPSA) and Head of the Safer Nairobi Initiative (a joint collaboration between UN-HABITAT and the City Council of Nairobi)

task that would not give any results fast and could not be guaranteed to be any fairer than the elections themselves.

A rerun, according to them, implied that the former election was flawed and would therefore be divisive and politically dangerous and since new elections could take a year and so, no solution would be offered to the current crisis. The ODM negotiators added that they lacked confidence in the then current Electoral Commission and thus a rerun under the mentioned commission was not an option. As per the experts' conclusions, there was no fast way to get at the "truth" concerning the elections and thus they suggested that an Independent Review Committee be set up to look into what happened during the elections. The said committee could then recommend a recount if it was deemed that this would give an accurate result.

Concurrent with the proceedings of the formal mediation, a track II diplomacy group named 'Nairobi Peace Initiative' held meetings Westlands, Nairobi and opened its doors to the public and entertained the exchange of ideas. These ideas developed in often informed official negotiations since Kofi Annan and the other negotiators were kept abreast of them all, since both the official and unofficial parties met in different areas after work whether in entertainment clubs or in dinner hotels and held informal discussions. The informal and unofficial nature of these relaxed meetings made it possible to present, explore, and discuss ideas openly, including ideas that may be too bold or too sensitive to bring up in official negotiations.

Other track II diplomacy initiatives were those embarked on by the youth in the grassroots such as sports. The youth groups in the grassroots would organize football tournaments and other games so as to involve the idle youth in the community and hence keep them occupied so they would not resort to destructive behaviours like looting and holding violent demonstrations in the streets. These sports activities were

also a way to reduce ethnic tensions and rid the notion of tribalism from the youth. The track I negotiators were constantly kept in the know about these track II activities which gave them a sense of encouragement and determination knowing that there were some good initiatives going on in the communities and not all was doom.

Both negotiating sides expressed the need for cross-party action for peace and reconciliation on a community level to address these issues. They also agreed that on a national level, the people must accept that the mediation being led by the Panel was the only form of mediation that the parties would consent to engage in. The ability to reach out to “experts” and “informed voices” was a modality used throughout the negotiations, at times to depoliticize discussions, to simply keep them focused, or to prove that what felt like uncharted territory had actually been tried and tested, successfully, elsewhere.

One of the challenges of the formal mediation process was evidenced when both parties had agreed to address the political crisis which entailed implicitly and explicitly creating some form of transitional arrangement which would ultimately have to involve power sharing. However, the GoK/PNU side began suggesting that power sharing would mean the defacto end of the multiparty system in Kenya, something that they could not agree to. It seemed like they were reacting to the continued insistence by ODM that the elections had been stolen, thereby entrenching their initial status quo position even more. It became obvious that for progress to be made the ODM would have to drop its accusation of electoral robbery and GoK/PNU would need to go back to its previous position of being willing to consider transitional arrangements.

At this moment, Annan began to show more firmness and to step up pressure on the parties when he threatened to walk out on the mediation process and abandon the country to its demise. This was a clear use of heavy strategies. Despite the clear

setbacks in the talks, he sent a message to the people of Kenya, through the media, which emphasized that the teams had been working hard to reach a decision, thereby increasing pressure on the parties to meet public expectations. He urged the parties to be careful in their use of words by avoiding terms that antagonized the other side. He insisted that the time for questioning the legitimacy of Kibaki was over and that there was need to move on and as such, the revisiting of issues in the future would be ruled “out of order.”

As the negotiations proved difficult mainly because of lack of willingness and effort by the parties to reach an agreement, the international community voiced through statements by Condoleezza Rice who stressed that failure was not an option and that the future of the relationship of the US with both sides and their legitimacy depended on “their cooperation to achieve this political solution”.⁹ Alternatives such as UN Security Council sanctions or US unilateral action were put on the table and the US confirmed that it was “exploring a wide range of options.”¹⁰ through an statement by Jendayi Fraizer calling for the need for an “external solution,” without giving any details of what such a solution would entail¹¹ . Additionally the US and Canada threatened to impose travel bans on those who would obstruct the talks in any way.

According to a European diplomat, the leverage that the European countries used was threats of sanctions and withdrawal of foreign direct investment and aid. The European countries also threatened to impose travel advisories and travel bans using the schengen visa but this was not actualized. The European Union (EU) countries also imposed political pressure for a speedy resolution of the conflict by threatening to take away direct budget support. The European diplomat recounts that the country members

⁹ D. Lucas Barasa and Bernard Namunane, “Talks Suspended as US Threatens to Act,” Daily Nation, February 27, 2008

¹⁰ Stephanie McCrummen, “Annan Suspends Talks in Kenya, Pressure Rising on Rivals to Reach Power Sharing Deal,” Washington Post, February 27, 2008

¹¹ US Assistant Secretary of State for African Affairs Jendayi Frazier, quoted in Evans Wafula, “Kenya: Prime Ministry Jeopardizes Talks,” AfricaNews, February 27, 2008, available at http://voicesofafrica.africanews.com/site/list_messages/16058

of the European Union as well as the U.S held talks with Kofi Annan where he would brief them on the progress made in the mediation process. Kofi Annan would also ask them for help in asserting pressure on the principals by way of threatening to impose sanctions and withdrawal of financial and other support to Kenya¹². It was evident that the international community spoke with one voice and applied extra pressure when needed.

This international pressure also from other sources as well as the pressing need for a solution to end the violence, actually bore fruit and led to two major agreements on agenda items one and two, to end the violence and address the humanitarian situation on the ground. These agreements, made on February 1st and 4th respectively, involved concrete measures to hold joint meetings to promote peace, ensure freedom of expression and the right to peaceful assembly; investigations into crime and police brutality; assisting the safe return of internally displaced persons; and the establishment of a truth-and-reconciliation commission.

Given the fragility of the process and the fears of the people on the ground, a careful media strategy was put in place so as to conceal the existing tensions in the negotiating room since the country desperately waiting for news of peace. However it was necessary to keep the people informed of the high-level negotiations so that they would not feel excluded from a process that concerned them deeply. The media houses also embarked on collecting the views of Kenyans which was a way of getting them involved in a platform of exchanging ideas. With the vital aid of President Mkapa who translated all the messages, Kofi Annan took it upon himself to include the people in the process as much as possible through media transparency. While downplaying the harsh

¹² Interview with a Senior European diplomat from one of the European Union Member states

realities behind closed doors when the process seemed to go off track, he would reassure the nation with his steady optimism.

Agreements reached

a) Creation of a government of national unity which created the post of a prime minister

The formal mediation led to an agreement of powersharing since it seemed to be the only fair option at the time, for both parties, who despite their firm stands but had no option but to compromise. This basically meant that Kenya would now have its leadership and government split in half. One of the major obstacles in the said process was finding a solution which would create a prime-ministerial position which was non-executive but still meaningful. Annan's proposition to make a non-executive position with substantial powers and special responsibility delegated from the powers of the president was a midway, creative solution which satisfied both parties.

Finally, both President Mwai Kibaki and the Honorable Prime minister Raila Odinga publicly signed an agreement on the Principles of 'Partnership of the Coalition Government'¹³. The government would then have to feature an executive comprised of an equal number of ministers from both of the conflicting parties.

For many, this was a triumph of African diplomacy, for some, it was the first realization of the international community's "responsibility to protect" (RtoP), enshrined in the 2005 World Summit Outcome Document¹⁴, while for others, it was the avoidance of another genocide on African soil. It is impossible to know in exact terms what was prevented or what might have been, but all the warning signals indicated that

¹³ Lindenmayer E and Kaye J.L., *A Choice for Peace? The Story of Forty-One Days of Mediation in Kenya*, (New York: International Peace Institute, August 2009) p 2

¹⁴ United Nations, 2005 World Summit Outcome, UN Doc. A/RES/60/1, October 24, 2005, paras. 138 and 139; Roger Cohen, "How Kofi Annan Rescued Kenya," *The New York Review of Books* 55, no. 3 (August 14, 2008); and United Nations Secretary-General, *Implementing the Responsibility to Protect*, UN Doc. A/63/677, January 12, 2009.

a failure to solve this crisis may have resulted in significantly more violence, bloodshed, and loss of life, with huge implications for the entire region.

Some have however claimed that the option of power-sharing was a predefined solution on the part of the mediator and was pushed down the throats of the parties. These critics of Annan further state that he was only an instrument of mainly the US government which had its own interests to protect and pushed the power sharing option to the Kenyan parties. Nevertheless, power sharing was accepted by all the involved parties despite their interests and was at that particular time the most opportune option so as to satisfy both parties when Kenya was literally burning.

The civil society was actively involved in explaining the concept of power sharing to many Kenyans who did not understand. They assured Kenyans that it was workable and a good solution and that everything would be fine. They insisted that powersharing was enriched by a government of national unity which meant that Kenyans must unite and forsake any hatred for each other. They preached peace, love and calm for all insisting that the well existence of Kenya depended on it. They continued to facilitate seminars and workshops in various societies country wide where they would teach the people about powersharing and a government of national unity and what it actually meant.

As mentioned earlier, these initiatives were fundamental in improving relations, building understanding and restoring trust among the different people in the society. These activities were complimented by the government for instance in terms of financial resources and their commitment to attaining a government of national unity. These initiatives were part of efforts in peace building and reconciliation of the people in the grassroots so as to bring about healing and forgiveness amongst Kenyans. As mentioned earlier, sports activities were heavily applied in this phase, which was a strong means to

reduce ethnic tensions and rid the notion of tribalism especially among the youth who constitute the largest population of Kenya.

b) Agenda 4: Long term issues

The power sharing agreement reached on February 28, 2008 was not sufficient but was a step in the right direction. The remaining task which was labelled Agenda 4 of the Kenya National Dialogue and Reconciliation which was essentially the long-term issues that included: constitutional reform; institution reform of the judiciary, the police, the civil service and the parliament; land reform; poverty, inequality and regional imbalances; sound economic policies especially on poverty and unemployment particularly among the youth, consolidating National Cohesion and Unity; ensuring transparency, accountability and abolishment of impunity. The government committed itself by formally signing approval of the reforms. The government committed itself to agenda 4 by adopting it into policy while track II diplomacy is crucial because it has and can further reach the grassroots and work to reconcile the people.

The 2008 Kenyan mediation process following the post election violence in 2007-2008 is a classic example of dual diplomacy where formal and informal diplomacy measures were adopted concurrently and complementarily so as to resolve the existing active and structural conflict.

Critical Analysis and Conclusion

Dual diplomacy is a fairly new concept, seeing that not many have ventured out to write and critically examine it. It is still being explored with some saying that there is a lack of systems and structures to reconcile the efforts of the formal diplomacy with those of the informal diplomacy. According to Chataway, some track I diplomacy officials view track II diplomacy efforts to be a nuisance and a meddling of official

governmental affairs¹⁵. However, Kelmen asserts that unofficial diplomacy can make a significant contribution to conflict resolution and it should be seen as an integral part of a larger diplomatic process rather than a sideshow to the real work of diplomacy¹⁶. Hare further notes that 'private initiatives offer considerable advantages in protracted conflicts, or in the pre-negotiation phase of a conflict, enough to warrant adding them in the list of mediation attempts in any conflict in international relations'¹⁷.

However, some argue that a disadvantage of dual diplomacy is the fact that while track I and track II officials may communicate with each other to increase complementarities and coordination, their interaction is often influenced by their perceptions towards each other, which are shaped by past experiences, norms and values of the professional culture they belong to, and national differences. These differences can potentially constitute a barrier to effective communication and coordination between the two conflicting parties¹⁸. However, the solution is to shelve away these differences and focus on the main issues of the conflict and eventually resolving it.

It has been well noted that both track I and track II diplomacy are quite distinct and cannot be substituted for each other. Saunders who is a former diplomat and now engaged in track II activities notes that there are some things that only governments can do, such as negotiate binding agreements and there are other things that only private citizens of outside government can do, such as change human relationships¹⁹. Chataway

¹⁵ Chataway, C. *The Evolution of Diplomacy: Coordinating tracks I and II in World Order for a new Millenium: Political, Cultural and Spiritual Approaches to Peace Building* ed A. W. Dorn. (St Martin's Press: New York 1999) p 141

¹⁶ Kelman, H. 'The Interactive Problem-Solving Approach', in *Managing Global Chaos* ed. C. Croker and R. Hampson with P. Ahal, 501-520 (Washington, D.C: U.S Institute of Peace, 1996) p 502

¹⁷ Hare, P. '*Informal Mediation by Private Individuals*' in *Mediation in International Relations*, ed. J. Bercovitch and J. Rubin, 52-63. (New York: St. Martin's Press, 1992). P 62

¹⁸ C. Esra Çuhadar Gürkaynak. Track Two Diplomacy from a Track One Perspective: Comparing the Perceptions of Turkish and American Diplomats. Department of Political Science, Bilkent University, Bilkent Ankara 06800, Turkey, *International Negotiation* 12 (2007) 57-82

¹⁹ Saunders, H. H., "Pre-negotiation and Circum-negotiation: Arenas of the Peace Process," in Chester A. Crocker and Fen Osler Hampson with Pamela Aall, eds., *Managing Global Chaos: Sources of and Responses to International Conflict* (Washington, D.C.: United States Institute of Peace, 1996), p 421

observes that track II diplomacy now designates more specifically, those efforts by skilled conflict resolution practitioners to facilitate dialogue, analysis and joint problem-solving between members of societies in conflict²⁰.

Chataway observes that some track I diplomacy officials view track II diplomacy with a bit of suspicion. The former are concerned that track II diplomacy might replace track I diplomacy. This fear emanates from the fact that some high profile track II initiatives have seemed to totally overlook or downplay the official negotiations and thus making the officials look incompetent and arouse their resentment. Babbit and d'Estree however dispute this by stating that track II diplomacy initiatives and activities are not intended to substitute track I diplomacy but rather to complement it²¹.

Track II initiatives are also viewed with distrust and resentment by their track I diplomacy counterparts. They believe that some of the track II diplomacy players make claims for their selfish aims and thus the track I diplomacy officials view these track II initiatives with a lot of scepticism. This was evident during the Kenya 2008 Mediation process where some track I diplomacy individuals believed that a number of the track II diplomacy individuals were selfish and used the desperation of Kenyans to enrich themselves.

According to an interviewee, one of the informal meetings held by the referred to individuals appealed for funds from countries of the international community in the claim that they would carry out seminars and workshops in the grassroots so as to bring about peace and reconciliation. Unfortunately, these seminars and workshops were never carried out and hence the self appointed leaders of such groups pocketed the money which had been given to them. Some even claimed to give relief food to some of

²⁰ Op Cit Chataway, C. *The Evolution of Diplomacy: Coordinating tracks I and II in World Order for a new Millenium: Political, Cultural and Spiritual Approaches to Peace Building* 1999 p 143

²¹ Babbit, E. and T. d'Estree 'Case Study: An Israeli-Palestinian Women's Workshop: Application of the Interactive Problem Solving Approach', in *Managing Global Chaos*, ed. C. Crocker and R. Hampson with P. Ahal, 521-532 (Washington, D.C: U.S Institute of Peace, 1996) p 532.

the displaced Kenyans but this was only a guise to extort money which they quickly retained to themselves as soon as it had been released²².

It is a proven fact that official diplomatic efforts are often better funded than unofficial efforts, and are supported by informational, security, and logistical resources unavailable to unofficial efforts. This was evident in the Kenya 2008 Mediation process where no cost was spared in conducting the formal mediation. The International Community amassed their financial resources and lavished the formal mediation process because their interests were common in that they wanted a cessation of violence and a solution found as soon as possible since they were losing a lot with every act of violence. However, many track II diplomacy initiatives were sometimes hampered owing to lack of funding and thus could not do all that they needed and wanted to do.

However, official diplomatic efforts are tied to the official policies of states (or state-like authorities) that fund them and thus may be constrained in their flexibility. For example, it may be difficult for official diplomats to explore new ideas unofficially unless these new ideas have some official backing, but such official support might not be forthcoming until after preliminary exploratory discussions. These strengths and weaknesses of official diplomacy can complement unofficial approaches to diplomacy. Track I and track II diplomacy must then work in complementarity so as to build stronger peace processes.

Some track I diplomacy officials feel that track II diplomacy practitioners might raise unrealistic expectations and thus contribute to misunderstandings regarding the government's negotiating position, or create greater resistance to negotiations. Other track I diplomacy officials feel that it is inappropriate to involve citizen diplomats in the official negotiations but say that if at all they are involved, they should only focus on

²² Interview with Dola, O. 'Chemi Chemi ya Ukweli', Westlands, Nairobi 12/9/2011

the needs and limitations of the negotiators. Nevertheless, track I officials admit that unofficial work is not susceptible to solution but it is generally not counterproductive.

Diplomats have over time recognized that track I has changed to a great extent in that it is no longer sufficient in tackling contemporary international conflicts. Some supporters of this view further argue that there is insufficiency of official diplomacy in the increasing specialization, complexity, and interdependence in international issues. They say that diplomacy today has to deal with issues such as the situation of the prisons, humanitarian aid, torture, environment, and women's rights²³ thus empowering and focusing more on track II diplomacy and almost overlooking track I diplomacy. However this argument is to a large extent inaccurate since track I diplomacy is still essential in resolving all the mentioned issues by creating the needed policies. Consequently, for a successful conflict resolution, track II diplomacy cannot be divorced from track I diplomacy since they both need each other to effectively tackle these issues.

Some who actively participated in the informal/ track II activities argue that the 2008 Kenya formal Mediation process was heavily political and hence all the decisions and measures taken were political²⁴. It has been claimed that the negotiators did not have Kenyans at heart but rather their political inclinations. It is also claimed that the power-sharing agreement for instance, was done as a result of pressure and not mutual agreement. Some maintain that some root causes of the post election conflict may not have been identified or included in the agenda 4 since the entire process was very rigid. In addition, the selection of the negotiation teams is said to be purely political hence

²³ Ibid C. Esra Çuhadar Gürkaynak. Track Two Diplomacy from a Track One Perspective: Comparing the Perceptions of Turkish and American Diplomats. Department of Political Science, Bilkent University, Bilkent Ankara 06800, Turkey, *International Negotiation* 12 (2007) 57–82

²⁴ Interview with Dola, O. 'Chemi Chemi ya Ukweli', Westlands, Nairobi 12/9/2011

their hard stands and lack of desire for compromise to relieve Kenya which was submerged in violence²⁵.

However, not only track I diplomacy can be accused of being heavily political at that moment. According to Ombak²⁶, some informal organizations like the Concerned Citizens of Peace (CCP) seemed to be already allegiant to one political side by way of their talk. They seemed to support the government and in favour of its policies and although they did not openly bad mouth Raila Odinga, it was almost clear that they supported Kibaki and hence they lacked effectiveness of engaging Kenyans at the grassroots. Ombok adds that in his view, CCP seemed to be oblivious of the anger and suffering of ordinary Kenyans.

The mediation table was turned into a tag of war between two political parties namely the ODM and the PNU while the rest of Kenyans including the other political parties were left out yet they bore the full brunt of the suffering in the violence. Dola suggests that there should have been a representative of the common mwananchi (Kenyans) at the mediation table. This way, the diverse views and ideas held by many Kenyans may have been given ear. He also advocates for the presence of a religious leader, a neutral lawyer and a civil society representative at the mediation table from the very beginning so that they may have understood the mediation process completely and been involved which would have been a sufficient representation of ordinary Kenyans (wananchi).

Another organization under track II diplomacy pointed out by Ombok as being politically aligned was the Kenyans for Peace, Truth and Justice Network (KPTJ) which was largely comprised of Human Rights groups who unanimously called for a vote

²⁵ Ibid Interview with Dola, O. 'Chemi Chemi ya Ukweli', Westlands, Nairobi 12/9/2011

²⁶ Interview with Ombak, O., Consultant for ChemiChemi ya Ukweli and other Human Rights organizations as well as a coordinate of World Vision Organization for Peaceful Transition and Reconciliation. 14/9/2011, 11:30am

recount or a re-run of the presidential elections. They were literally reiterating Raila Odinga's stand or demands. They failed to preach peace or cessation of the violence and as a result seemed insensitive to the suffering of ordinary Kenyans. The media supported them in this by giving them large airplay and portraying Raila's supporters as the victims. Although Kibaki had been already sworn in as the president, they openly displayed their discontent and that of ODM supporters.

Being a largely religious nation, Kenya looked for moral guidance from the religious leaders only to be gravely disappointed. According to Ombok, many religious leaders were compromised by the fact that they had already anointed some leaders aligned to Kibaki and certified their legitimacy in power in exchange of payment. Many cardinals called for Raila Odinga to go to court to submit his election dispute knowing fully well that the court system had already been compromised since the Chief Justice had already sworn in Kibaki as president.

The private sector is not spared from critique. According to Ombok, the private sector for a while appeared divided because many of the Kenyan businessmen who had initially presented the Kenya Private Sector Alliance (KEPSA) went underground in that they were no longer its image. KEPSA was now represented by a group of very wealthy businessmen who included Asians who were allied to Kibaki and did not want to associate with Raila Odinga or his supporters.

Despite the challenges mentioned above, the efforts of track II diplomacy had a very significant role in managing the conflict. Many of the activities were genuine and hence many workshops, seminars and peace meetings were held throughout the country which helped a great deal to calm Kenyans and have them live peacefully and halt the violence. Dual diplomacy was thus crucial at that moment for Kenya and it was very successful indeed.

Conclusion of the thesis

This Paper has made a compelling case for dual diplomacy where it has emerged that the strengths of dual diplomacy far outweigh and weaknesses that it may be said to have. The problem statement of this paper was that single track diplomacy and more specifically track I diplomacy is not nearly enough to effectively solve a conflict. It is faced with the problem of re-entry since it lacks connection with the grassroots. This problem has been seen to be solved by track II diplomacy since the mentioned track has a lot of connections and interactions with the grassroots or the ground.

It is therefore only logical that track I and track II work together for proper resolution of a conflict. Track I should always keep in contact with track II so as to find out the attitude and situation on the ground. Track II should also maintain close contact with track I so as to properly advise them on any decisions they are about to make which affected the grassroots. This paper has illustrated that track I diplomacy and track II diplomacy perfectly complement each other and should never be done in exclusion of each other.

The objectives of this paper have been duly fulfilled where detailed information of dual diplomacy and how it works has been given especially in chapter two. Although this paper only discusses dual diplomacy in the light of the concurrent adoption of track I and track II diplomacy, the roles and activities of all the existing tracks of diplomacy namely track I, track II and track One and a half diplomacy have been heavily discussed in this paper. It has also been seen that no single track diplomacy is effective in resolving a conflict since it either runs the risk of imposing a decision and consequently creating a grave problem of re-entry on the ground if done solely by track I diplomacy or lack of policy recognition if done solely by track II diplomacy. The avenues of

complementarity of both track I and track II diplomacy were explored and adopted in the 2008 Kenya Mediation process which has been discussed in chapter four.

The theory of ripe moment in mediation is well discussed. It is evident that the moment was not ripe for the 2008 Kenya formal mediation process and had to be ripened by the appointed mediator. This paper highlights how Kenya witnessed an influx of voluntary mediators who wanted to undertake the mediation process but were unsuccessful due to the fact that the moment for mediation was not ripe and none of them were able to ripen the situation since none of the conflicting parties wanted to face each other and talk. It seems the ripening of the moment not only depended on the mediator but the parties and their allies. A Mutually Hurting Stalemate (MHS) for both the conflicting parties actually matured when the appointed mediator Kofi Annan came into the scene. It can be argued that he was at the right place at the right time.

This paper did not feature any hypothesis because it was purely qualitative and analytical. In addition, the research herewith did not employ the use of questionnaires but rather non structured interviews were carried out. The interview question outline is annexed herewith.

Chapter 5: Conclusion

This chapter concludes the research study where it has been proven that the dire need for dual diplomacy cannot be ignored. The trend on employing single track diplomacy in a mediation process has proven to be quite outdated. Track I diplomacy or official diplomacy is the arm of diplomacy which is charged with forming policy always likes to remain informed of citizen action so that their policies are not irrelevant. A track II facilitator must recognize that if their initiative is to be successful, they must eventually merge with track I. This is because track II initiatives include collecting, analyzing of information and delving deeply into the historical grievances and hatreds on each side while the government (track I diplomacy) are ultimately responsible for negotiating, signing, and ratifying treaties and other formal documents that may be needed to seal a successful track II initiative¹.

Dual diplomacy is very productive in all angles since as opposed to track I diplomacy, Chataway notes that track II diplomacy enjoys the fact that there is no need for it to produce formal agreements hence there is time and liberty to engage in the slow process of trust building, to begin to understand the conflict from the other's perspective and to delve in to the complex patterns of action and counteraction that keep the conflict ongoing for decades on². They also have the liberty to focus on a single issue, if necessary, over a considerable length of time and enjoy the freedom to think outside the constraints of official policy and hence the development of new creative ideas. This is usually done while track I diplomacy is in the process of negotiating a formal agreement concerning the issue at hand. Needless to say, the creative new ideas are usually welcome and adopted where possible.

¹ Mc Donald J. W. "An Ambassador's View of Track Two Diplomacy," in *Arbitration Journal* 45 (June 1990): 10-14

² Chataway, C. *The Evolution of Diplomacy: Coordinating tracks I and II in World Order for a new Millenium: Political, Cultural and Spiritual Approaches to Peace Building* ed A. W. Dorn. (St Martin's Press: New York 1999) p 145.

On the other hand, public accountability of the official diplomacy means that peace agreements carry the authority necessary to deliver the resources for implementation. Therefore, track I and track II are complementary in both context and contribution. The two tracks are also instrumental in the fact that they provide feedback to each other. They often correct or rebuke each other whenever either has gone wrong. This feedback is important because it ensures that the initiatives implemented by either track will be relevant and effective.

It has been noted that track I and track II diplomacy officials face numerous difficulties as they try to communicate with each other to increase complementarities and coordination. Such interaction may be dominated by the negative perceptions they may harbour towards each other which are shaped by past experiences, norms and values of the professional culture, national differences and so on. However, if the roles of both tracks I and II diplomacy are perceived as clearly different from each other with complementary contributions to international diplomacy, then a replacement of one by the other is an entirely misplaced concept.

A persistent challenge that hampers dual diplomacy is the fact that there is a lack of structures and systems to institutionalize the decisions made at the grassroots³. There lacks a means of reconciliation between the decisions made by ordinary Kenyans during their workshops, seminars or other meetings and the policy making avenues. To some, it seems like the policy makers or the track I diplomacy actors are unable, unwilling or simply ignore to take the ideas or views of those in the societies and integrate it to their policies. In solution to this there must be an entity formed and recognized by the track I diplomacy actors which would be tasked with the responsibility of gathering all the ideas and views of ordinary Kenyans from various sectors and these views must be

³ Interview with Elijah Agevi, Governor of Kenya Private Sector Alliance (KEPSA) and Head of the Safer Nairobi Initiative (a joint collaboration between UN-HABITAT and the City Council of Nairobi)

factored in policy making. A law should be made that no policy should mature without the input of the views of the informal sector.

A number of track I and track II initiatives have developed new ideas for de-escalation and settlement. The involvement of experts in the 2008 Kenya formal mediation process led by Kofi Annan largely influenced the decisions made and the strategies set therein by briefing the parties on the technicalities as well as the pros and cons of all the options that lay before them. For instance, the experts pointed out that a vote recount would greatly raise political temperatures since it would warrant for opening all the ballot boxes, which was not only an ambitious undertaking but also one that would not give any fast results and could not be guaranteed to be any fairer than the elections themselves.

The experts further brought out the fact that a rerun implied that the former election was flawed and would therefore be divisive and politically dangerous. They asserted that new elections could take at least a year and hence would not offer a quick solution to the then current crisis. This is a clear involvement of track II diplomacy in the track I diplomacy mediation process where the former offered timely advise to the latter who adopted it. It has been established that home grown solutions to problems in the society which are raised and implemented.

The benefits and importance of dual diplomacy far outweigh these difficulties or challenges. It is well known that two heads are better than one and in this case, single track diplomacy is crippling. Track I diplomacy will offer the needed ammunition in terms of policy or a set of official rules and laws and so on while track II will offer the understanding and will between the parties and their constituents as well as their allies to resolve the existing conflict. Employing two tracks of diplomacy simultaneously as discussed in this paper is crucial for an effective resolution of an existing conflict.

Theirs must be understood to be a symbiotic relationship where one is incomplete or inadequate without the other.

The theory of ripe moment in mediation can well be compared and explained by the action of cooking food so that it is edible. Potatoes for instance cannot be eaten by humans while raw. They need to be cooked so that humans can be able to eat and enrich their bodily system. Their peels whether cooked or raw are not consumed by humans and are thus disposed. In the same way, a right time for solving a conflict must also be established (and if the parties do not want to, the mediator should do it) and solving the conflict entails removing and disposing off of the things that are unacceptable to the other party. For instance, the mediator should work to remove the conflict drivers. Mediation is about negotiating till a level and acceptable ground is found for both the parties.

In many conflicts many may say that it is best to sit down and resolve the problem once the parties have calmed down and thought more carefully. A good example of this is a domestic conflict between a man and wife where it is advisable for both parties to relax and think calmly. It is only then that they can sit down and come up with a workable solution. However in case of a crisis, especially one that affects the lives of others, there is no luxury of time and a solution has to be reached immediately.. Beyond a shadow of doubt there existed a crisis within the Kenya 2008 post election conflict were the conflicting parties were forced to care more about the effects of the conflict on ordinary Kenyans than their own interests. The mediator played a major role in ripening the moment for a resolution of the conflict.

In days of old as well as currently, elders or close family friends often come in as mediators in a domestic conflict for instance where the two main affected parties do not see eye to eye. Usually a married couple who are more mature in the marriage

institution than the conflicting couple, step in as mediators in the existing domestic conflict. They may or not be invited to mediate in the conflict but by virtue of their place in society or their relationship with the couple involved in the domestic conflict, they step in. They are often forced to ripen the moment because usually the conflicting couple does not want to talk face to face with each other. They do this by for instance, setting up a meeting with the couple, without their knowledge, so they are forced to look at each other and talk. In such an atmosphere, both parties can articulate their problems and a discussion can ensue. In such a meeting, many ideas and suggestions are given by the mediators as well as the parties in conflict so that no one feels ignored or disrespected and thus a mutual decision is easily reached at.

Mediation calls for creativity on the part of the mediator and to achieve this, flexibility and awareness of timing are crucial. This requires that the mediator constantly reassess, remain open to ambiguity, and offer new options when necessary. The mediator must exhaust all avenues of opportunity so as to close a deal. Kofi Annan as the lead mediator in the 2008 Kenyan mediation process seemed to possess these qualities and thus a solution was reached.

The agreed upon agenda 4 has seen numerous peace building and reconciliatory activities in the grassroots so as to enable the people to live in harmony. Many workshops and seminars have been organized in the grassroots and the societies countrywide so as to consolidate national cohesion and eradicate distrust. The government has also joined in the agenda 4 initiatives by establishing the Kenya Anticorruption Commission, the truth, Justice and Reconciliation committee, a new constitution has already been passed and now only awaits full implementation, reform both in the judiciary, the police department and the land department. Not everything is smooth and running yet but the right systems have been put in place to avoid a resurgence

of the post election conflict evidenced in 2008. Unfortunately, many things have been politicized and what was agreed on is slowly becoming debatable. In the future, track I diplomacy must honour their agreements and track II diplomacy must not relent on their duties because the grassroots depend on them.

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Dola, Oluoch. 'Chemi Chemi ya Ukweli', Westlands, Nairobi 12/9/2011

Elijah Agevi, Governor of Kenya Private Sector Alliance (KEPSA) and Head of the Safer Nairobi Initiative (a joint collaboration between UN-HABITAT and the City Council of Nairobi)

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Annex 1

INTERVIEW QUESTIONS (structured open ended)

Track I diplomacy

- **Ombok. O.,** Civil Servant in the government of Kenya.
 1. Which dual diplomacy tactics were used?
 2. What did you note as the weaknesses of track II diplomacy?

Track II diplomacy

- **Elijah Agevi,** Governor of KEPSA(Kenya Private Sector Alliance), head of the SAFER CITIES an initiative between UN-HABITAT and the City Council of Nairobi.
 1. What were the activities undertaken as track II mediation by KEPSA-the business fraternity?
 2. What were the activities undertaken as track II mediation by SAFER CITIES INITIATIVE – NGO process?
 3. What were the activities undertaken as track II mediation by the Church?
- **Wafula Nabutola,** former chairman of the Nairobi Central Business Association (NCBDA) and member of the Rotarian Association, 5-5-2011
 1. What were the activities undertaken as track II mediation by KEPSA-the business fraternity?
 2. What were the activities undertaken as track II mediation by SAFER CITIES INITIATIVE – NGO process?
 3. What were the activities undertaken as track II mediation by the Church?
- **Dola, Oluoch –** Chemi Chemi ya Ukweli (NGO)
 1. Did Kofi Annan dictate and stipulate the track II mediation?
 2. What were the track II diplomacy activities carried out and where
 3. What strategies were employed in track II diplomacy activities?
 4. What did you note as the shortcomings of track I diplomacy/formal mediation process
- **Senior European diplomat, European Union member state**
 1. What were your main concerns during the 2008 Post-Election violence in Kenya?
 2. What activities or measures did you adopt in the mediation process? – What strategies (heavy strategies)? Or what did you do to put pressure on the decision makers?
 3. Did you carry out any function in the mediation? Did you join forces with Kofi Annan at any point? Did you undertake any mediation (formal or informal) roles alongside him?-activities in the grassroots?