

**UNIVERSITY OF NAIROBI**

**INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES**

**AN ASSESSMENT OF THE CONFLICT MANAGEMENT  
APPROACHES BY STATE AND NON-STATE ACTORS IN KENYA:  
A CASE STUDY OF THE MT. ELGON CONFLICT**

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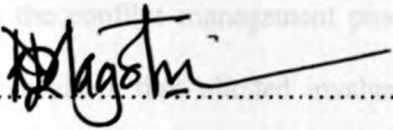
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Arts in International Conflict Management

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## DECLARATION

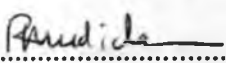
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## ABSTRACT

This study investigated the effectiveness of the conflict management approaches by state and no-state actors in the conflict in Mt. Elgon District, Kenya. It made an attempt to establish the main causes and impacts of the conflict. It also identified the actors involved in the conflict and the conflict management process. The study made use of questionnaires and structured interviews that elicited invaluable information from key policy and decision-makers, peace practitioners, opinion leaders in both government and outside government. To complement these, the study reviewed vast literature relevant to the area under investigation.

The study found out that land occupies a central role in the conflict in Mt. Elgon. The land problem is manifested in structural violence that has been going on for a long period of time since colonialism. As a natural resource-based conflict, the land problem is set out within the economic, political, social, environmental and legal contexts. The land problem is manifested in the inequitable land distribution and access; discriminatory or unclear land tenure systems; competing land claims and uses; land scarcity; social exclusion and identity; bad governance coupled with weak national and local institutions and arbitration procedures. The study points out that for effective management of this conflict to accrue, it must therefore address the contexts within which the conflict unfolds.

The study also found out that there are various actors, state and non-state, involved not only in the conflict management processes, but also in sustaining the conflict. The state has been identified as the dominant player in this regard. Most of the actors in this conflict have entered the conflict with various motives and interests. Nevertheless, the main driver behind

their involvement has to do with the maintenance of security. However, the study points out that these efforts have been geared merely at settlement rather than resolution of the conflict. They have employed myriads of methodologies such as arbitration of land disputes, most of which end up in the formal legal systems. Coercive methods have been used thereby negating the role of conflict resolution. In effect, most of the methods used by the actors have proved to be ineffective.

In view of these, the study has documented a number of lessons drawn from the conflict management process. It points out clearly that the conflict in Mt. Elgon District cannot simply be resolved through a “quick fix”. This is because the conflict has lived on for a long time and transformed in both structure, interests and actors involved. It also emphasizes the need for inclusivity of all stakeholders in conflict management through enhanced facilitation, communication and engagement. It also points out that the power relations and interests of stakeholders need to be carefully taken into consideration for sustainable peace to accrue.

This study asserts that the greatest challenge to the conflict management and the attendant peacebuilding activities and programmes in Mt. Elgon lies in the quality of commitment and political will of the various related actors both in the conflict and the management process. It recommends the need for all actors to address the structural issues that have worked to sustain the conflict and embrace conflict sensitive development approaches at all levels. Otherwise the domination of the coercive means in addressing this conflict would only have served to propel the conflict to other levels that may explode in future. It further recommends that a study be conducted on organized militia and a mapping of the extent and magnitude of proliferation of illicit small arms and light weapons in the District and adjacent Districts.

## ABBREVIATIONS AND ACRONYMS

AACC	All African Conference of Churches
ACTS	African Centre for Technology Studies
ANC	African National Congress
AU	African Union
CCR	Centre for Conflict Resolution
CEWARN	Conflict Early Warning and Response
CNN	Cable News Network
CPMR	Conflict Prevention, Management and Resolution
CSOs	Civil Society Organizations
EAC	Eastern Africa Community
ECOWAS	Economic Commission for Western Africa States
EPLF	Ethiopian Peoples' Liberation Front
EU	European Union
FBOs	Faith-Based Organizations
GDP	Gross Domestic Product
ICG	International Crisis Group
IDIS	Institute of Diplomacy and International Studies
IGAD	Inter-Governmental Authority on Development
KANU	Kenya African National Union
KNDR	Kenya National Dialogue and Reconciliation
LRA	Lord's Resistance Army
MLDF	Moorland Defense Force
NARA	National Accord and Reconciliation Agreement
NCKK	National Council of Churches of Kenya
NGOs	Non-Governmental Organizations
NRM	National Liberation Movement
ODM	Orange Democratic Movement
OECD	Organization for Economic Co-operation and Development
PEV	Post - Election Violence
PLO	Palestinian Liberation Organization
PNU	Party of National Unity
SADC	Southern Africa Development Co-operation
SALW	Small Arms and Light Weapons
SLDF	Sabaot Land Defence Force
UN	United Nations
UNDP	United Nations Development Programme
UNLA	Uganda National Liberation Army
UNOCHA	United Nations Office for Co-ordination of Humanitarian Assistance
UNON	United Nations Office in Nairobi
USA	United States of America
WCC	World Council of Churches

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All the members of the Institute, under the very able stewardship of the Director Prof. Mwangi Njiru, I would like to thank you most especially for having opened my pathway into this field. I would also like to thank you most especially for having opened my pathway into this field. I would also like to thank you most especially for your encouragement and support throughout the journey. This proved to be such a rewarding journey to be associated with. To all my colleagues, I thank you for your realization, support, encouragement and assistance.

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## TABLE OF CONTENTS

Declaration.....	i
Abstract.....	ii
Abbreviations and Acronyms.....	iv
Dedication.....	v
Acknowledgements.....	vi
<b>CHAPTER ONE: BACKGROUND TO THE STUDY</b>	<b>1</b>
Introduction.....	1
Statement of the Research Problem.....	5
Objectives of the Study.....	6
Review of Related Literature.....	6
Literature on Conflict and Conflict Management.....	7
Literature on Ethnic Conflicts.....	11
Typology of Ethnic Conflicts.....	12
Linking Ethnic Conflicts to Structural Violence.....	14
Management of Ethnic Conflicts.....	18
Literature on Ethnicity and Land-related Conflicts in Kenya.....	20
A Brief Overview of the Literature.....	26
Justification of the Study.....	26
Academic Justification.....	27
Policy Justification.....	28
Theoretical Framework.....	29
Research Hypotheses.....	31
Research Methodology.....	31
Sampling Design.....	33
Primary Data Sources.....	34
Secondary Sources of Data.....	35
Data Processing and Analysis.....	36
Limitations of the Study.....	37
Chapter Outline.....	37

**CHAPTER TWO: DEBATES ON CONFLICT MANAGEMENT APPROACHES  
BY STATE AND NON-STATE ACTORS**

Introduction.....	38
Debates on Conflict Management Approaches.....	38
Debates on Conflict Management by State Actors.....	39
Debates on Conflict Management by Non-State Actors.....	46
Debates on Conflict Management by both State and Non-State Actors.....	54
Conflict Transformation.....	55
Debates on Settlement and Resolution of Conflict.....	61
Debates on Ripe Moment for Management of Conflict.....	64
Conflict Management by Third Parties .....	72
Debates on Single and Multiparty Conflict Management.....	74
Debates on Impartiality in Conflict Management.....	76
An Overview of the Chapter.....	79

**CHAPTER THREE: LAND-BASED CONFLICT: THE MT. ELGON CASE STUDY**

Introduction.....	80
Land-related Conflicts.....	80
The Mt. Elgon Conflict.....	82
Sources of the Mt. Elgon Conflict .....	84
Inequitable Land Distribution and Access.....	85
Discriminatory or Unclear Tenure Policies.....	86
Population Displacement and Migration.....	88
Competing Land Claims and Uses.....	90
Land Scarcity and Insufficiency.....	92
Weak Institutions of Governance.....	94
Poverty.....	99
The Role of Politics.....	101
Social Exclusion and Identity.....	103
Contradictory Arbitration Procedures.....	103

The Impact of the Mt. Elgon Conflict.....	105
Overview of the Chapter.....	106

**CHAPTER FOUR: A CRITICAL ANALYSIS OF THE EFFECTIVENESS OF THE  
CONFLICT MANAGEMENT APPROACHES BY STATE AND  
NON-STATE ACTORS IN THE MT. ELGON CONFLICT**

Introduction.....	108
Change in Structure of the Mt. Elgon Conflict and its Effect on the Management Process of the Conflict.....	109
Change in Leadership of the Actors involved in the Mt. Elgon Conflict and its Effect on the Conflict Management Process .....	111
Dispute Settlement and its Effect on the Conflict Management Process.....	113
Conflict Resolution and its Effectiveness on Conflict Management Process.....	116
An Overview of the Chapter.....	118

**CHAPTER FIVE: CONCLUSIONS AND RECOMMENDATIONS**

Introduction.....	119
Chapter Summaries.....	119
Conclusions.....	121
Lessons Learnt.....	123
Recommendations.....	124

**BIBLIOGRAPHY.....125**

Books.....	125
Journals.....	130
Reports.....	133
Dissertations.....	134
Interviews.....	135
Newspapers.....	135
Conference Papers.....	135
Unpublished Documents.....	135
Television Documentaries.....	135

**LIST OF ANNEXES:**

**CHAPTER ONE**

**BACKGROUND TO THE STUDY**

**Annex 1: Introductory Letter..... 136**

**Annex 2: Questionnaire.....137**

**Introduction**

The world today has witnessed a rapid growth in inter-ethnic conflicts and a consequent loss of human resources. Most ethnic conflicts in today's world are not even limited to the boundaries of nations, states, regions, continents, continents, regions and nations but also spread across the globe. In 1987, for instance, only 3 of the world's major ethnic wars were active (Levinson, 1987). In 1992, the number of ethnic wars had risen to 187 (Levinson, 1992). This is a clear indication of the increasing number of ethnic wars.

Moreover, the number of ethnic wars has increased in the last few years. The number of ethnic wars has increased from 187 in 1992 to 217 in 1997 (Levinson, 1997). This is a clear indication of the increasing number of ethnic wars. The number of ethnic wars has increased from 187 in 1992 to 217 in 1997 (Levinson, 1997). This is a clear indication of the increasing number of ethnic wars. The number of ethnic wars has increased from 187 in 1992 to 217 in 1997 (Levinson, 1997). This is a clear indication of the increasing number of ethnic wars.

<sup>1</sup> See Levinson, 1987, "The Number of Ethnic Wars in the World, 1945-1987", *Journal of Peace Research*, 14(1), 1-10.

<sup>2</sup> See Levinson, 1992, "The Number of Ethnic Wars in the World, 1945-1992", *Journal of Peace Research*, 19(1), 1-10.

<sup>3</sup> See Levinson, 1997, "The Number of Ethnic Wars in the World, 1945-1997", *Journal of Peace Research*, 24(1), 1-10.

# CHAPTER ONE

## BACKGROUND TO THE STUDY

### Introduction

The world at large has witnessed a rapid decline in inter-state conflict and a comparative rise in intra-state conflicts. Most armed conflicts in today's world are not wars between nations but rather intra-state conflicts, within national boundaries. A renowned diplomat and conflict analyst, John McDonald observes that in 1987, for example, only 4 of the world's major armed conflicts were cross-border wars while 32 of the 36 major armed conflicts fought in 1987 were civil wars or intra-state wars of independence.<sup>1</sup>

According to Mwagiru<sup>2</sup>, a number of agents act to internationalize conflict. Among these is contiguity or neighbourliness of states; ethnicity, ethnic relations and kinship; universalization of human rights; media and the "CNN Effect"<sup>3</sup>. In support of Mwagiru, Lake and Rothchild note that internationalization of conflict arises from challenges related to human rights and refugees.<sup>4</sup> Since refugees exert immense pressure on land and social facilities in host countries, they also cause environmental stress and hence conflicts with host countries. In some cases, they also extend their 'home' conflicts to the host countries thereby necessitating the host countries to respond.

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<sup>1</sup> See J.W. McDonald, 'Further Exploration of Track Two Diplomacy,' in Kriesberg, L. & Thorson, S.J. (eds) *Timing the De-Escalation of International Conflicts*, (New York: Syracuse University Press, 1991) pp. 201 – 220.

<sup>2</sup> M. Mwagiru, *Conflict in Africa. Theory, Processes and Institutions of Management* (Nairobi: CCR Publications, 2006) pp.61-67.

<sup>3</sup> See D.R. Gergen 'Diplomacy in a Television Age: The Dangers of Teledemocracy' in Serfaty, S. (ed), *The Media and Foreign Policy* (London: Macmillan, 1990) pp.47-63.

<sup>4</sup> See D.A. Lake and D. Rothchild, 'Containing Fear. The Origins and Management of Ethnic Conflict' in *International Security*, Vol.21, No.2 (Fall 1996) pp.41-75.

Cognizance of these phenomena, this study posits that the effective management of the conflict under investigation has to take these agents and challenges into consideration. For example, it is acknowledged that the conflict in Mt. Elgon led to some of the people affected by the conflict crossing into Uganda as refugees. Similarly, the media flagged out this conflict such that it was not just one that was confined to Kenya. Rather, it attracted a lot of interests within the international community as issues of torture and violation of human rights were cited.

Adedeji observes that during the four decades between the 1960s and the 1990s, there were about 80 violent changes of governments in sub-Saharan Africa.<sup>5</sup> These conflicts have divided the continent along ethnic, cultural, political, social and economic lines as well as retarded development and caused wanton destruction to the existing infrastructure. Crocker further notes that intra-state conflicts are exemplified in civil or ethnic wars, independence struggles, religious conflicts, wars over regime legitimacy, wars to overthrow repressive systems, wars of governmental and territorial fragmentation such as cessation, among others.<sup>6</sup>

In particular, the African continent has gone through very trying moments with regard to conflicts. It is a vast and varied continent whose countries have different histories and geographical conditions, different stages of economic development, different sets of public policies and different patterns of internal and international interaction. In tandem with these, Kofi Annan notes that the sources of conflict in Africa reflect this diversity and complexity.

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<sup>5</sup> A. Adedeji (ed), *Comprehending and mastering African conflicts* (London: Zed Books, 1999) p.3.

<sup>6</sup> C.A. Crocker, 'Intervention. Toward Best Practices and a Holistic View' in Crocker, C.A et al., *Turbulent Peace. The Challenges of Managing International Conflict* (Washington, D.C.: United States Institute of Peace Press, 2001) p.230.

In his view, some sources are purely internal, some reflect the dynamics of a particular sub-region, and some have important international dimensions.<sup>7</sup>

Tarimo and Manwelo observe that most of the African countries are deeply affected by the cycle of violence owing to the lack of socio-cultural and sufficient knowledge about the root causes of conflict in most of the conflict resolution methodologies applied in addressing them.<sup>8</sup> Most of the conflicts have ended up being merely settled rather than resolved.<sup>9</sup>

Drawing from the African examples, Kenya experiences numerous challenges to its national security and stability. These challenges have become increasingly sophisticated and complex with time. The resulting conflicts range from internal disputes between and within different groups, to cross-border confrontations with groups from neighbouring countries. These conflicts are either violent or non-violent and are exacerbated by a number of things. The spill-over effects from the wider conflict in the Great Lakes Region and the Horn of Africa has, for instance, adversely affected neighbouring communities. Similarly, complex and interrelated factors that include poor governance, poverty, competition for resources and identity-based rivalries have been recorded as push factors for conflict. The violent conflicts are further complicated by easy access to small arms and light weapons (SALW) as exhibited in gun-related crimes, in both rural and urban centres. These conflicts have structural causes that need to be addressed by both state and non-state actors.

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<sup>7</sup> See K. Annan. 'The Causes of Conflict and the Promotion of Durable Peace and Sustainable Development in Africa.' Secretary-General's Report to the United Nations Security Council, 16 April 1998. Also available at <http://www.un.org/ecosocdev/geninfo/afrec/screport/main.htm> accessed on 07/02/2009.

<sup>8</sup> A. Tarimo, S.J. and P. Manwelo, S.J. *African Peacemaking and Governance* (Nairobi: Acton Publishers, 2008) p. 29.

<sup>9</sup> For an in-depth discussion of this debate, see Chapter 2.

According to Johan Galtung structural violence is embedded in the structures of relationships and interactions.<sup>10</sup> Active or physical violence is the most visible form of violence that manifests itself openly and inflicts harm. Non-violent or structural conflict on the other hand gives rise to structural violence that may not necessarily be visible. It breeds over a long period of time through injustice, inequality, oppression, suppression among other institutional maladies. Hence, the spate of violent conflicts experienced in Kenya following the disputed presidential election results of December 2007 put to test Kenya's reputation for relative peace and stability in the Great Lakes Region and Horn of Africa. This caused extensive damage to life and property, and led to the displacement of populations either as refugees, internally displaced persons or besieged populations. Beyond the material impact, the Post Election Violence (PEV) had psychological, physical and emotional repercussions mainly on women, children, youth and the elderly. For a country like Kenya, this demonstrated that peace and security cannot be taken for granted.

In the face of these conflict situations, there has been a concern among policy makers, academicians, peace practitioners and other stakeholders to promote peace and stability in Kenya. This is reflected in active and continuous engagements with local and national conflict management initiatives over the years. The last decade has seen a tremendous increase in the number of actors, collaborating with the state, and engaging in conflict management activities. Interestingly, these interventions have employed an admixture of approaches. This study seeks to assess the effectiveness of these approaches. In particular, it focuses on the protracted natural resource-based conflict revolving around access to, control and use of land in Mt. Elgon District.

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<sup>10</sup>J. Galtung, 'Violence, Peace and Peace Research' *Journal of Peace Research*, Vol.3 (1969) pp.167-191. See also Mwagiru, M. op. cit p.15.

## Statement of the Research Problem

Dynamism of issues, interests, actors in any conflict determines the eventual transformation of conflict.<sup>11</sup> Whenever this occurs, a conflict takes on new characteristics. Further, issues, perceptions and approaches to the conflict continue to change along the path of conflict dynamics.<sup>12</sup> These dynamics necessitate that appropriate and integrated conflict management approaches are adopted for the effective management of conflicts.

Mt. Elgon has a history of all manner of conflict mostly revolving around natural resource access, utilization, ownership and control. Since the 1970s, the District has been the arena of a lurking land access. The District's population density is high and multi-ethnic with most of the inhabitants having migrated from far away places.<sup>13</sup> This settlement has continued to influence the local communities' lifestyle leading to encroachment of the forest for cultivation and exploitation as well as tension coupled with the emergence of militant groups. These developments have continued to occasion conflict among communities in the District. The spate of violence experienced in 2008 had been replayed sporadically since 2006 as rival communities competed over the controversial Chebyuk settlement scheme.<sup>14</sup> Myriads of intervention measures have been put in place by both state and non-state actors with a view to address the conflict. Despite the increase in the number of actors and myriads of approaches, conflicts still ensue. This study seeks to investigate the effectiveness of the

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<sup>11</sup> M. Mwagiru, op. cit., p.96.

<sup>12</sup> H.W. Jeong, *Peace and Conflict Studies: An Introduction* (Aldershot: Ashgate, 2000) p. 37.

<sup>13</sup> ACTS. 'Land Tenure and Violent Conflict in Kenya. In the Context of local, national and regional policy frameworks'. Report of the Proceedings for the Consultative Conference, Hilton Hotel, Kenya, 6 Oct 2008.

<sup>14</sup> Ibid.

approaches used in addressing the conflict. The question that begs answers is: How effective have been the conflict management approaches to the conflict in Mt. Elgon District?

### **Objectives of the Study**

The overall objective of this study is to assess the effectiveness of the conflict management approaches in the conflict in Mt. Elgon District.

The sub-objectives of the study therefore are to:

- i. analyze the causes of the conflict in Mt. Elgon District;
- ii. examine the different approaches to conflict management in Mt. Elgon District;
- iii. identify the major challenges to conflict management in Mt. Elgon District;

### **Review of Related Literature**

This section seeks to review some relevant literature on the approaches to conflict management in Kenya in the context of the debates advanced so far. It therefore offers both the background and the spine on which the study hinges. The section also provides definitions of terms and concepts relevant to the study. In particular, the literature reviewed in this section relates to conflict and conflict management approaches. It also brings out conflict related to land in Kenya and its attendant management. Further, it delves into the Mt. Elgon conflict and the concomitant conflict management approaches.

## Literature on Conflict and Conflict Management

Dougherty and Pfaltzgraff define conflict with reference to a condition in which one identifiable group of human being is in conscious opposition to one or more other identifiable group because these groups are pursuing what are or appear to be incompatible. Zartman argues that implicit meaning of conflict is the incompatibility that is inherent in situations with multiple issues and multiple actors.<sup>15</sup> The explicit definition of this term refers to the violent stage or expression of that incompatibility.

Okoth simplifies the definition of conflict as just an issue in dispute between or among parties.<sup>16</sup> Mwangiru *et al* take the same line and refer to conflict as a situation that exists where people have incompatible goals and each believe that their point of view is the only correct one.<sup>17</sup> Similarly, Mwangiru adds that a conflict arises when two or more parties have incompatibilities about something.<sup>18</sup> Reuck proceeds to say that a conflict situation is usually said to arise between parties who perceive that they possess and are in pursuit of mutually incompatible objectives.<sup>19</sup>

In common understanding and usage, the term 'conflict' has a negative connotation, yet conflict, whenever it occurs has both negative and positive effects. This negative perception sees conflict as a disruption of normal, desirable social interaction. In real world situations

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<sup>15</sup> I.W. Zartman, 'Conflict Resolution: Prevention, Management and Resolution in Africa' in Deng, F.M. & Zartman, I.W. (eds) *Conflict Resolution in Africa* (Washington DC.: Brookings Institution, 1991).

<sup>16</sup> See Okoth, P.G *Conflict in Contemporary Africa* (Nairobi: Jomo Kenyatta Foundation, 2000) p.1.

<sup>17</sup> M.Mwangiru, M.Munene and N. Karuru, *Understanding Conflict and Its Management: Some Kenyan Perspectives* (Nairobi: CCR-WLEA, 1998) p. 4.

<sup>18</sup> M. Mwangiru, *Conflict in Africa. Theory, Processes and Institutions of Management* (Nairobi: CCR Publications, 2006) p.3.

<sup>19</sup> A. de Reuck, 'The Logic of Conflict: Its Origin, Development and Resolution' in Banks, M (ed) *Conflict in World Society: A New Perspective on International Relations* (Sussex: Harvester, 1984) p.96-111.

therefore, those actors who take this view have been keen to either resolve or eliminate conflict.

In advocating for collaborative peacebuilding in Somalia, Heinrich<sup>20</sup> identifies a school of thought that emphasizes evidence in assuming conflict as a normal condition of human existence. In his view, those who subscribe to this perspective argue that conflicts are, and will remain, part and parcel of human existence at all levels of social organization. However, this view tends to portray conflict as if there is nothing that can be done to prevent it. Indeed, some early warning and response mechanisms can be put in place to prevent conflict from escalating. This has been the practice in a number of countries the world-over. This notwithstanding, Heinrich asserts that conflict is a vehicle and a driving force for social change. Building on this view, it is noteworthy that individuals, groups and societies differ in their perceptions, judgments and expectations. It is in the course of articulation and pursuit of these that people are required to make solutions, thereby necessitating a clash of decisions that further effects social change and development.

Whether conflict is necessary or not is a matter of debate among various scholars. In this regard, Zartman sees conflict as an inevitable aspect of human interaction.<sup>21</sup> John Burton concurs with Zartman and argues that conflict is a necessary creative component in human relationships. He describes conflict as the means to achieve social values by welfare, security, justice and opportunities for personal development.<sup>22</sup> Mwangi adds that conflict

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<sup>20</sup> W. Heinrich. *Building the Peace: Experiences and reflections of collaborative peacebuilding: The Case of Somalia* (Uppsala: Life and Peace Institute, 1997) p.3.

<sup>21</sup> I.W. Zartman., op.cit pp.299-319.

<sup>22</sup> J.W. Burton, *World Society* (Cambridge: Cambridge University Press, 1972) pp.137-138.

has both positive and negative effects. He advances that positively, conflict leads to remedial and corrective measures, transformation of relationships and social change<sup>23</sup>.

Owing to the importance of conflict in society, John Burton is against the suppression of conflict since this may render the society static. In his view, conflicts should be accepted as a reality than be feared, avoided or even wished away.<sup>24</sup> This view therefore calls for willingness and readiness on the part of actors to manage conflicts in a more effective manner. Miall *et al* also attest to this and assert that conflict is an intrinsic and inevitable aspect of social change that needs to be resolved.<sup>25</sup> It is this resolution that is likely to bear peace dividends such as improved relations and interactions among the parties concerned.

Many scholars see different causes of conflicts depending on the uniqueness and the contexts in which such conflict occur. Some scholars categorize conflicts as either internal or external. However, there is no clear cut since conflicts may have both sources. Deng and Zartman argue that conflicts in Africa have many underlying causes including incomplete nation building, differences in identities derived from ethnicity, religion, culture and language, economics and competition for limited resources.<sup>26</sup> A renowned former Secretary General of the United Nations, Kofi Annan supports this thesis when he posits that the main causes of conflicts in Africa include poverty, poor governance, ethnicity, colonial legacy among others.

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<sup>23</sup> M.Mwagiru, *Ibid*.

<sup>24</sup> J.W. Burton, *World Society* (Cambridge: Cambridge University Press, 1972) pp.137-138.

<sup>25</sup> See H. Miall, O. Ramsbotham, and T. Woodhouse, *Contemporary Conflict Resolution* (Cambridge: Polity, 1999) p.5.

<sup>26</sup> F.M.Deng and I.W. Zartman (eds), *Conflict Resolution in Africa* (Washington, DC,: Brookings Institution, 1991) p.45.

<sup>27</sup> See K. Annan, 'The Causes of Conflict and the Promotion of Durable Peace and Sustainable Development in Africa', Secretary-General's Report to the United Nations Security Council, 16 April 1998.

A number of scholars see conflict as being deeply embedded in the anomalous structures in the society. Johan Galtung,<sup>28</sup> Webb<sup>29</sup> and Jeong,<sup>30</sup> classical scholars in structural violence assert that conflict is embedded in the structures of the society. In his view, therefore, the notion of structural conflict cannot be ignored since it has influenced the study of conflict and the conflict management process.

In an interesting analysis that establishes a strong relationship between security and development, Mudida supports Galtung's view and says that the underlying causes of many conflicts lie in the anomalous structures in societies. In his view, the manifestations of most conflicts have deeper structural roots that need to be addressed.<sup>31</sup> This further implies that conflict management approaches should transcend mere physical violence and take into account the structures that underlie social relationships. This view is central to the debate between the subjectivists and objectivists who are concerned with the resolution or removal of violence from the society. Subjectivists believe that conflicts can be managed through third party actors and problem-solving whereas objectivists believe that conflicts can be remedied by changing the structures responsible for their generation.

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<sup>28</sup> J. Galtung, 'Violence, peace and peace research' *Journal of Peace Research*, Vol.6, No.6 (1969) pp.167-191; also J. Galtung, 'Cultural Violence' *Journal of Peace Research*, Vol. 27 (1999) pp.291-305.

<sup>29</sup> K. Webb, 'Structural Violence and the Definition of Conflict' in *World Encyclopedia of Peace*, Vol.2 (Oxford: Pergamon Press, 1986) pp.431-434.

<sup>30</sup> H.W. Jeong, *Peace and Conflict Studies: An Introduction* (Adershot: Ashgate, 2000) pp.53-64.

<sup>31</sup> R.Mudida, 'Structural Causes of Ethnic Conflict' in Tarimo,A,SJ and Manwelo,P,SJ (eds), op.cit. pp.75-89. Also see R.Mudida, 'The Security-Development Nexus: A Structural Violence and Human Needs Perspective' in Brockmann.K., Hauck,H.B., & Reigeluth,S (eds) *From Conflict to Regional Stability: Linking Security and Development* (Berlin:DGAP,2008) pp.11-22.

Mwagiru contends that conflict is about non-negotiable needs such as recognition, participation and dignity.<sup>32</sup> In his view, conflicts are inherently non-negotiable and can only be resolved because they involve values and needs. He further emphasizes that a conflict manager who enters a conflict should have a better understanding of the relationship between the conflict, actors and the issues with a view to designing appropriate management processes. It is these conflict management processes that form the focus of this study.

### **Literature on Ethnic Conflicts**

It is widely acknowledged that since the end of the Cold War, a wave of ethnic conflict has swept across most parts of the world. Most of these conflicts end up being manifested in the so-called ethnic cleansing as certain ethnic groups engage in the annihilation and extermination of other ethnic groups. The conflict in Mt. Elgon appears to have semblance of this type of conflict. In an effort to delve into this discussion it will be prudent to understand what constitutes ethnicity and ethnic groups.

The terms ethnic group and ethnicity are often used interchangeably and are a world-wide phenomena. In general sense, the continued identification of social groups as ethnic group often leads to a sense of belonging, identity and affiliation within that particular group. It is this manifestation that brings out ethnicity. Rothchild defines an ethnic group as people who are inked by a consciousness of a special identification, who jointly seek to maximize their political, social and economic interests. Such a group has common origins, historical

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<sup>32</sup> M. Mwagiru, *The International Mediation Management of International Conflicts in Africa: the Uganda Mediation, 1985* (Ph.D. Dissertation, University of Kent at Canterbury, 1994) p.38-48. See also M. Mwagiru, *Conflict in Africa. Theory, Processes and Institutions of Management* (Nairobi: CCR Publications, 2006) p.42.

memories, ties and aspirations.<sup>33</sup> Jonyo supports this argument and contends that for an ethnic group to emerge, a social group must be guided by the cultural distinctiveness of the two.<sup>34</sup> Eriksen reiterates this view when he explains that ethnicity:

... is an aspect of social relationship between agents who consider themselves as culturally distinctive from members of other groups with whom they have a minimum of regular interaction ... thus also ... defined as a social identity.<sup>35</sup>

Kinyanjui and Maina are of the same view. They use the term ethnicity to refer to a kind of group identification; a sense of belonging to a people that is experienced as a greatly extended form of kinship.<sup>36</sup> This study concerns itself with the way people or members of one ethnic group relate to the other ethnic groups in the light of these identities.

### Typology of Ethnic Conflicts

Scholars have identified two distinct types of ethnic conflicts, all with international dimensions. Lake and Rothchild,<sup>37</sup> Rosen and Jones,<sup>38</sup> Carment,<sup>39</sup> Abdul-Enein<sup>40</sup> and Posen<sup>41</sup> have identified the two as irredentist and secessionist or separatist. The first types of ethnic conflicts are secessionist or separatist in nature. These types of conflicts have their origins in state settings but spill over into the international arena. Examples of these include the

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<sup>33</sup> D. Rothchild, *Managing Ethnic Conflicts in Africa. Pressures and Incentives for Co-operation* (Washington, DC: Brookings Institution Press, 1997) pp.3-22.

<sup>34</sup> See F.Jonyo, 'Ethnicity in Multiparty Electoral Politics, in Chweya,L (ed.), *Electoral Politics in Kenya* (Nairobi: Centre for Law and Research International,2002) p.88.

<sup>35</sup> See T.H. Eriksen, *Ethnicity and Nationalism: Anthropological Perspectives* (1993) p.12.

<sup>36</sup> S. Kinyanjui and G. Maina, 'Ethnic Conflict in Kenya: An Analysis of the Politicization of Ethnicity and the Impact of Free Markets on Ethnic Relation' in ICJ, *Ethnicity, Human Rights and Constitutionalism in Africa* (Nairobi: The Kenya Section of the International Commission of Jurists, 2008) pp.78-96.

<sup>37</sup> D.Lake and D.Rothchild, 'Containing Fear: The Origins and Management of Ethnic Conflicts' *International Security*, Vol.21, No. 2 (September,1996) pp.41-75.

<sup>38</sup> S.J.Rosen & W.S.Jones, *The Logic of International Relations* (Cambridge: Winthrop Publishers,Inc.,1974) pp.233-241.

<sup>39</sup> D.Carment, 'The International Dimensions of Ethnic Conflict: Concepts, Indicators and Theory' *Journal of Peace Research*, Vol.30, No.2 (1993) pp.137-150.

<sup>40</sup> M.M.Abdul-Enein, 'Peaceful Settlement of African Disputes in the Post-Cold War Era' in Jinadu,L.A (ed), *The Political Economy of Peace and Security in Africa : Ethnocultural and Economic Perspectives* (Harare: Print Source (Pvt) Ltd.,2000) pp.148-165 at p. 151.

<sup>41</sup> See B.R.Posen, 'The Security Dilemma and Ethnic Conflict' *Survival*, Vol. 31, No. 1 (Spring 1993) pp.27-47.

## Linking Ethnic Conflicts to Structural Violence

As noted in the preceding section, the underlying structures behind any one conflict must be addressed if the conflict has to be effectively managed. Like many other conflicts, the conflict in Mt. Elgon District has structural causes. Linking this to the ethnic rivalries and competition witnessed over the years, it points to the solidarity of ethnic groups through shared values, interests and history. An ethnic conflict arises whenever a particular ethnic group competes with other ethnic groups in satisfying their respective political, social, economic and even legal interests.

Lake and Rothchild argue that ethnic conflict is often caused by collective fears of the future, particularly as ethnic groups begin to fear for their safety.<sup>43</sup> Vesna Pesiz supports this idea when he concedes that ethnic conflict is caused by the “fear of the future, lived through the past”<sup>44</sup> In common practice, competition for resources typically lies at the heart of ethnic conflict. Most of these resources are in short supply and are often allocated by the state through a political process that is often coupled with bargaining and lobbying. This allocation of resources occasions competition and struggle between individuals and groups.

Hardin supports this view and suggests that politics causes ethnic conflict in the sense that individuals and groups that often gain access to positions of influence increase their welfare.<sup>45</sup> He argues that the state controls both access to and ownership of scarce resources and therefore sets the terms of competition between individuals and groups. In this sense,

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<sup>43</sup> D.Lake and D.Rothchild, 'Containing Fear: The Origins and Management of Ethnic Conflicts,' *International Security*, Vol.21, No. 2 (September, 1996) pp.41-75.

<sup>44</sup> Cited in *ibid*, p.43, Remarks to the Institute on Global Conflict and Cooperation Working Group on the International Spread and Management of Ethnic Conflict, 1 October, 1994.

<sup>45</sup> R.Hardin, *One for All: The Logic of Group Conflict* (Princeton: Princeton University Press, 1995) pp.34.

resources become objects of competition. This has been the case in Mt. Elgon where the state controls access to land. It determines “who gets what, when, where and how” thereby occasioning competition and struggle for the resources and hence, conflict. In the same realm, Claude Ake illustrates how over-politicization of social life gravely weakens the state in Nigeria due to each of the ethnic groups looking up to the state for favour when allocating public resources.<sup>46</sup> This has often led to not only ethnic conflicts but to other types of conflicts related to natural resources.

Most Governments have policies that tend to encourage and promote competition for resources. However, Rothchild and Lake argue that such competitive preferences are by themselves not sufficient drivers of conflict. In their view, most communities, and by implication, ethnic groups, acknowledge the costly implications of conflict and will more often than not strive to restrain from engaging in it for mere competition over resources.<sup>47</sup> Similarly, Wanyande argues that the mere existence of different ethnic groups does not necessarily lead to competition for resources or to ethnicity. It must be accompanied with some form of discrimination in allocation of public resources.<sup>48</sup> Wanyande *et al* shares the same view as Wanyande when he acknowledges that ethnic groups are shaped through influence in the allocation of public resources by those in authority.<sup>49</sup>

While analyzing ethnic conflicts, most scholars tend to emphasize the economics at play. Paul Collier astutely cites economic sources of civil wars, including ethnic conflicts. He argues that ethnic conflicts are often motivated by greed and grievance and therefore

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<sup>46</sup> C.Ake, ‘Why is Africa Not Developing?’ *West Africa*, No.3538 (June 17, 1985) p.1213.

<sup>47</sup> D.Lake and D.Rothchild, *op.cit.*

<sup>48</sup> P.Wanyande, ‘The Persistence of Ethnicity in Kenya’s Public Life’ in Tarimo,A,SJ & Manwelo,P., SJ (eds), *Ethnicity Conflict And the Future of African States* (Nairobi: Paulines Publications Africa,2009) pp.53-68.

<sup>49</sup> *Ibid.*

sustained by economic benefits accruing from such conflict.<sup>50</sup> In other words, conflict is either precipitated by quests for economic gain or for justice. Snyder and Jervis,<sup>51</sup> leading scholars of the security dilemma emphasize the importance of the 'predatory' motives of ethnic groups in recent ethnic conflicts. However, the "greed/grievance theory" continues to lose ground as many conflicts do not lend themselves to such a simplistic categorization. Gurr disagrees with Collier and argues that ethnic conflicts are motivated by more than greed or grievance. He argues that although most ethnic conflicts are focused on material and political gains, there are other factors such as the search for identity along religious and cultural lines.<sup>52</sup>

Richard Little<sup>53</sup> supports this view and emphasizes that conflicts cannot be clearly understood by merely examining individual motivation and intention. The entire structure within society should be the focus. This is because, in his assertion, human behaviour whenever aggravated precipitates structures which the individual may not be aware of. Jeong<sup>54</sup> submit to this view and asserts that ethnic conflicts have their roots in structural causes manifested in intolerance of ethnic differences and denial of each others' needs for security and identity. Thus structure shapes the life of individual's behaviour and conduct. Until it is addressed, individuals may not escape the web in which they find themselves.

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<sup>50</sup> P. Collier, 'Economic Causes of Civil Conflict and their Implications for Policy' in Crocker, C.A. et al., pp.143-162.

<sup>51</sup> In J. Snyder & R. Jervis, 'Civil Wars and the Security Dilemma' in Walter, B & Snyder, J (eds) *Civil Wars, Insecurity and Intervention* (New York: Columbia University Press, 1985).

<sup>52</sup> T.R. Gurr, 'Minorities, Nationalists and Islamists: Managing Communal Conflicts in the Twenty-First Century' in Crocker, C.A. et al., op. cit. pp.131-160.

<sup>53</sup> See R. Little, 'Structuralism and Neo-Realism' in Light, M & Groom, A.J.R (eds) *International Relations: A Handbook of Current Theory* (London: Printer Publishers, 1985) pp.74-89.

<sup>54</sup> See H.W. Jeong, op. cit.

Brown sees ethnic conflicts as arising from an incompatibility of goals in relation to political, economic, social, cultural, legal, or territorial issues between two or more ethnic groups.<sup>55</sup>

Indeed, many times, individuals and groups are in pursuit of mutually incompatible interests, goals and objectives that become conflictual. Galtung alludes to the structural violence that is occasioned by the frustration that individuals and groups face in their pursuit for basic needs and contends that this struggle makes them fail to develop their full potential.<sup>56</sup>

In yet another exciting analysis of the structural causes of ethnic conflict, Mudida adds that ethnic conflicts in Africa have structural sources. In his view, the ethnic manifestations of these conflicts have deeper structural roots that need to be addressed.<sup>57</sup> It is evident that ethnic conflicts are prevalent in many African countries due to the anomalous structures that work to exploit certain segments of the population, notably, ethnic groups at the expense of others. According to Mudida, the anomalies are usually embedded in the defective constitutions that serve to promote structural violence. Mwangi qualifies this by arguing that if not dealt with, structural violence may lead to physical violence as life in the structure become unbearable.<sup>58</sup> This is what the conflict in Mt. Elgon seems to have brought to the fore. It is most likely that the anomalies in the governance structures over a long period of time could no longer hold thereby leading to the rupture of the conflict that was manifested through physical violence.

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<sup>55</sup> M.E. Brown, 'Ethnic and Internal Conflicts: Causes and Implications' in Crocker, A. *et al* op. cit., pp.209-262.

<sup>56</sup> See J.Galtung, 'Violence, Peace and Peace Research' *Journal of Peace Research*, Vol.3 (1969) pp.168-170.

<sup>57</sup> R.Mudida, 'Structural Causes of Ethnic Conflict' in Tarimo, A, SJ and Manwelo, P, SJ (eds), op.cit., pp.75-89. Also see R.Mudida, 'The Security-Development Nexus: A Structural Violence and Human Needs Perspective' in Brockmann, K. et al (eds) *From Conflict to Regional Stability: Linking Security and Development* (Berlin: DGAP, 2008) pp.11-22.

<sup>58</sup> M. Mwangi, *Conflict in Africa: Theory, Processes and Institutions of Management* (Nairobi: CCR Publications, 2006) p.25,

From the literature reviewed in this section, it is clear that seeing ethnic conflicts from the lens of structural violence provides a useful tool of analysis. Structural violence provides clues that can help effective conflict managers address the deficient and anomalous political, economic, social, cultural and legal structures in society.

### **Management of Ethnic Conflicts**

The wave at which ethnic conflicts are spreading cannot be underestimated. Ethnic conflicts pose serious challenges to the survival of the state, especially when elements of ethnic cleansing become evident. Debates on the resolution of ethnic conflict are usually framed as a debate about the effects and manipulation of political structures. This behoves all states and non-state actors to ensure effective management of these conflicts. Kaufmann<sup>59</sup> argues that within each of the ethnic groups in conflict, ethnic conflict puts extremists in power, so social structures can be used to prevent the emergence of new political structures that can protect all ethnic groups. He further asserts that ethnic conflict creates a security dilemma which makes it impossible for the groups to trust each other, thereby blocking the emergence of trans-ethnic political institutions.

Lake and Rothchild argue that effective management of ethnic conflicts must focus on reassurance of the minority groups of their physical and cultural safety and security.<sup>60</sup> They suggest that effective management of these conflicts lie in confidence-building measures. In their view, these measures include demonstration of respect for the interests of all groups, power sharing, regular free and fair elections, and finally, according some level of autonomy

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<sup>59</sup> C. Kaufmann, 'Possible and Impossible Solutions to Ethnic Wars,' *International Security*, Vol.20, No.4 (Spring 1996) pp. 136-175; see also C. Kaufmann, 'When All Else Fails' *International Security*, Vol.23, No. 2 (Fall 1998) pp. 120-156.

<sup>60</sup> A.Lake and D.Rothchild, op.cit., p.56.

to local leaders. However, these measures are conflict settlement oriented rather than resolution-oriented<sup>61</sup>. They only serve to provide some concessions and therefore do not resolve the conflicts. Zartman concurs and argues that these measures must be appropriate to the peoples, needs. He contends that the challenge lies in keeping the minorities from losing.

Owing to the inadequacies in the confidence-building measures, the United Nations Charter sees the primary responsibility of managing ethnic conflict as resting with the state.<sup>62</sup> Nonetheless, the Charter also points out the need for regional organizations to get involved in conflict management. In this view, sovereignty goes with responsibility and states have a long history of intervention in conflicts. It is argued that the state, with its monopoly of force is often in a position to “enforce stability” between local warring parties. The Kenyan Government has for example, taken a decisive stand in the management of the conflict under investigation. Over the years, the Government has attempted to intervene in the conflict in Mt. Elgon through various approaches that seem to have only handed concessions to the local population thereby merely settling and managing the conflict rather than resolving it. This calls for the re-establishment of effective institutions of both government local community that can command respect, trust and confidence. States the world-over have attempted to promote national cohesion by promoting stable ethnic relations and even made concessions with minority groups. Such concessions have been in form of enhanced participation, autonomy and access to resources.

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<sup>61</sup> Mudida reiterates this in his analysis of structural causes of ethnic conflicts.

<sup>62</sup> Charter of the United Nations

## Literature on Ethnicity and Land-related conflicts in Kenya

It can be argued that the Kenyan society is characterized by deeply embedded structural violence. As pointed out in the preceding sections of this study, Galtung posits that, “violence is present when human beings are influenced so that their actual somatic and mental realizations are below their potential realizations”.<sup>63</sup> Structural violence in Kenya manifests itself in anomalous legal, political, social and economic structures.<sup>64</sup> These structures prevent many Kenyans from achieving their full potential. As already pointed out elsewhere in this study, structural violence if not addressed for prolonged periods of time may eventually lead to physical violence as life in the structure becomes unbearable.

Kenya’s recent history has been dotted with several intense episodes of conflicts revolving around natural resources mainly land ownership, access and control. This can be traced as far back as the 1950s with the bloody repression of the Mau Mau movement by the British colonial power. It is on record that this conflict caused several deaths among the rebels who resisted British insatiable urge for land and prompted the first re-grouping of agricultural land in Kenya. Natural resource-based conflicts have been a common experience in Kenya. Mwangi asserts that these conflicts have to do with access, control and unsustainable use of natural resources.<sup>65</sup>

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<sup>63</sup> J. Galtung, ‘Violence, Peace and Peace Research’ *Journal of Peace Research*, Vol.3 (1969) pp. 167-191.

<sup>64</sup> Constitution of Kenya Review Commission, *The Final Report of the Constitution of Kenya, 2005*.

<sup>65</sup> See M. Mwangi, *Peace and Conflict Management in Kenya* (Nairobi: Pann Printers, 2003) p. 67.

Estimates show that 2.9 million people in Kenya live in areas adjacent to indigenous forests and directly depend on forest resources for their livelihood and survival.<sup>66</sup> In many instances, population increase implies that the number of users and uses grows and thereby translating in severe competition over the available scarce natural resources. Deforestation is therefore a big threat to Kenya's economic development since forest cover has drastically reduced due to agricultural expansion. More people will always demand more land for cultivation and settlements that can easily be acquired by clearing forests.

Land, like other natural resources, always contains a potential for physical violence especially in conditions where distribution is skewed. Homer-Dixon distinguishes between three forms of resource scarcity: demand-induced scarcity arising from population growth; supply-induced scarcity resulting from the depletion or degradation of a resource; and structural scarcity which originates from the distribution of a particular resource.<sup>67</sup> Borrowing from this analysis, it can be argued that Kenya's land conflicts have been fundamentally informed by structural scarcity.

Land ownership, access and use have been skewed since colonial times. Post-independence regimes have continued to exacerbate the problem and perpetuate the colonial legacy through the excessive centralization of power in the executive arm of government. This has in turn reinforced the structural anomalies of the colonial period. Given that Kenya is still largely an agrarian society, land has vital consequences for social-political organization. Illustratively, for example, agriculture and forestry contributed 22.7% of Gross Domestic Product (GDP) in 2007, the highest contribution of an individual sector.<sup>68</sup>

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<sup>66</sup> J.N. Muriuki, op. cit., p.106

<sup>67</sup> T. F. Homer-Dixon, *Environment, Scarcity and Violence* (New Jersey: Princeton University Press, 1999).

<sup>68</sup> Kenya National Bureau of Statistics, *Economic Survey 2008* (Nairobi: Government Printer, 2008) p. 27.

Land issues are an emotive and fundamental aspect of structural conflicts in Kenya but they have also often degenerated into physical violence. Violence over land conflicts has occurred sporadically in different parts of the country with massive displacements of local populations. The country witnessed what could be termed as systematic killings associated with ethnic uprising over land but manifested during electioneering in 1992, 1997, 2002 and 2007.

Central to land conflicts in Kenya are issues of ownership, access and use. Land has been the crux of economic, cultural and socio-economic change in Kenya. Following years of an inappropriate land tenure system, a large segment of the population continues to have difficulties not only in adapting to the modern agrarian economy but also in coping with the increasingly fragile and marginal environment, land degradation, low agricultural output and intensifying conflicts over access to and control of land.<sup>69</sup>

Historical injustices, marginalization, and political manipulation are among the factors that contribute to inter-ethnic conflicts and violence rooted on the issue of land. This is further exacerbated by the manipulation of political power at local levels, exclusion of and discrimination against certain groups. The issue of land conflict is also to be found in the consistent reluctance of the Government to undertake a land reform leading to a more equitable land distribution and to solve confusion over land titles. In addition, the Government has not been able to warm up to implementation of the recommendations

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<sup>69</sup> Constitution of Kenya Review Commission, 'The Final Report of the Constitution of Kenya, 2005.'

contained in the famous Ndung'u Land Report.<sup>70</sup> The Ndung'u Commission was set up in 2003 to investigate the irregular allocation of public land.

However, while the findings of the Commission were largely welcomed, most of the Commission's recommendations were ignored. The recommendations issued by the Commission highlighted, *inter alia*, the urgent need for establishing a Land Titles Tribunal dealing with the rectification - on a case by case basis - of the illegal allocation of lands, with the development of a comprehensive land policy, and with the establishment of an inventory of public land. While the fundamental and systemic aspects of the land problems identified by the Commission's report have been left to fester, evictions of communities from 'gazetted' or protected forest areas have been implemented with excess force and without resettlement of many of those evicted. In some cases, evictions exacerbated local ethnic and political tensions.

Sizeable literature has been generated with regard to the conflict in Mt. Elgon District.<sup>71</sup> Some of the literature paints a bleak picture of the situation thereby expressing fears of continued insecurity in the District. A number of researchers who have written about this conflict also have divergent viewpoints as to the root causes of the conflict. While some point at access to and control over land as the one of the causes, others amplify ethnic animosity and rivalry.

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<sup>70</sup> See Government of Kenya: 'Report of the Commission of Inquiry into the Illegal/Irregular Allocation of Public Land, 2004.'

<sup>71</sup> See for example, ACTS. 'Land Tenure and Violent Conflict in Kenya. In the Context of local, national and regional policy frameworks.' Report of the Proceedings for the Consultative Conference, Hilton Hotel, Kenya, 6 Oct 2008; UNDP/UNOCHA: Mt. Elgon Conflict: A Rapid Assessment of the Underpinning Socio-Economic, Governance and Security Factors". A report of the UNDP/UNOCHA funded research, 2009; R. Simiyu., *Militarization of resource conflicts: The case of land-based conflicts in the Mount Elgon region of Western Kenya*. (Pretoria: Institute for Security Studies, 2008);

With reference to this conflict, it is documented that prior to the 2008 violence, groups such as the Sabot Lands Defence Force (SLDF) killed over 150 people and displaced tens of thousands around Mt. Elgon. In the run-up to the elections in December 2007, the tensions became increasingly politicized. The military embarked on a violent large-scale operation against the SLDF in March 2008, resulting in many fatalities. But it is unlikely that these one-off operations have sustainable results because such coercive interventions do not address the underlying causes of the land disputes. Thus attempts to deal with land conflicts in Kenya have continued to maintain a tenuous *status quo* rather than resolve the structural problems<sup>72</sup>.

The inability to adequately address the land question has implied that the basic needs of significant a proportion of the Kenyan population is not met. Given the linkages between human needs and violent conflict, the land question in Kenya is likely to continue to lead to violence unless its root causes are addressed. The land question will therefore remain high on Kenya's political and development agenda. The nature and characteristics of the issues surrounding land are intricately intertwined with the country's history and have been shaped by political and economic developments from the colonial period to the present.<sup>73</sup>

Ethnicity and land conflicts have often gone hand in hand. For example, with regard to the role of ethnicity in Kenya's post-election violence, Wanyande asserts that the origins of ethnicity in Kenya can be traced to the colonial period when the country was divided into

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<sup>72</sup> See ACTS, 'Land Tenure and Violent Conflict in Kenya. In the Context of local, national and regional policy frameworks.' Report of the Proceedings of the Consultative Conference, Hilton Hotel, Kenya, 6 Oct 2008.

<sup>73</sup> Constitution of Kenya Review Commission, 'The Final Report of the Constitution of Kenya Review Commission, 2005.'

administrative provinces and districts that on the whole coincided with ethnic grouping.<sup>74</sup>

This has since been perfected by successive regimes in post-independent Kenya as they have used administrative units and boundaries to divide people of different ethnic backgrounds. In addition, since the introduction of political parties in Kenya, the tendency has been for members of a particular ethnic group to support the party led by one of their own thereby reflecting ethnic identity and voting patterns.<sup>75</sup> Concomitantly, ethno-politics has become a key factor leading to incitement to violence that in turn contributes to other structural causes of insecurity, such as social and economic marginalization of communities, inequitable distribution of resources, and an erosion of positive social values.

However, this study contends that ethnicity *per se*, in the absence of its politicization, does not cause conflict. There is evidence to suggest that where ethnic conflict has emerged in Africa, there have always been political machinations behind it.<sup>76</sup> Politicization of ethnicity often takes place in a situation characterized by an inequitable structure of access. Such a structure gives rise to the emergence of the "in group" and the "out group" with the latter trying to break the structure of inequality as the former responds by building barriers to access that ensure the continuation of its privileged position. At the centre of this scenario are the elites who, feeling excluded or threatened with exclusion, begin to invoke ethnic ideology in the hope of establishing a "reliable" base of support to fight what is purely personal and/ or

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<sup>74</sup> See P. Wanyande, 'The Persistence of Ethnicity in Kenya's Public Life' in Tarimo,A,SJ and Manwelo,P, SJ (eds) *Ethnicity Conflict and the Future of African States* (Nairobi: Paulines Publications Africa.2009) pp. 53-68 at 55.

<sup>75</sup> Ibid, pp.58. Also see W.A. Oyugi, 'Conflict in Kenya. A Periodic Phenomenon', Paper presented at the United Nations Interagency Framework for Co-ordination on Preventative Action, PDA experience-Sharing and Capacity Development Workshop, Farallon, Panama 23 October, 2008.

<sup>76</sup> See various works O. Nnoli, *Ethnic Politics in Africa* (Ibadan: Vintage Publishers, 1989); O. Nnoli, O. (ed) *Ethnic Conflict in Africa* (Dakar: CODESRIA Book Series, 1998).

elite interests.<sup>77</sup> This scenario is relevant to the Mt. Elgon conflict that is the focus of this study.

### **A Brief Overview of the Literature**

There is sufficient literature on regarding causes of conflict and its management. There is also relatively increasing literature on the conflict in Mt. Elgon. However, most of the literature on the conflict in Mt. Elgon does not clearly bring out an analysis of the structural causes of the causes of conflict. It does also not comprehensively elaborate on the conflict management approaches used. In limited cases where this is done, the literature fails to assess the effectiveness of these approaches. This study therefore, fills these gaps in the literature and analyses the interests of the actors and how these influence the outcome of the conflict management outcomes.

### **Justification of the Study**

This study has both academic and policy justifications. It is envisioned that academicians, researchers, policy and decision-makers, peace practitioners, conflict managers and other opinion leaders and shapers will find this reading useful.

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<sup>77</sup> A. Mafeje, 'The Illusion of Tribalism,' *Journal of Modern African Studies*, Vol. 9, No. 2 (1971).

## **Academic Justification**

There is a wealth of literature on conflict management. Through its multi-disciplinary approach, this study therefore seeks to contribute to the burgeoning literature by providing a comprehensive analysis of the relationship between interventions and conflicts. In particular, it seeks to bring out the important role played by both state and non-state actors in conflict management.

It will thus add up to the wealth of literature on effective conflict management processes through community based approaches. This study emphasizes the encouragement of local participation by communities at all stages of management and decision-making processes of their own affairs. This view points to the ideal situation where effective conflict management is achieved through collaborative management of resources; where people are not viewed as the problem but rather as the solution. Further, it is expected to open up new areas of study in order to develop a comprehensive programme that can lead to the institutionalization of conflict management processes in Kenya.

The utility of this study is in the research and response intervention gaps that it will fill. Peacebuilding interventions and conflict management approaches in Mt. Elgon have largely included humanitarian interventions, government security measures, community dialogues as well as psycho-social support. Most of the studies available have thus focused on these efforts that tend to amplify a human rights-based approach. However, there is need to address the challenge of a co-operative and integrative framework between both state and no-state actors that will serve to bring about sustainable peace.

Further, it is noteworthy that identity is one of the major drivers of the conflict in Mt. Elgon. However, there is no informative inquiry into the cultural and identity issues that feed this conflict. This study will therefore strive at filling this gap. Concomitantly, the study will attempt to analyze and understand the historical claim over Mt. Elgon and the greater Trans Nzoia and Bungoma Districts by the Sabaot community.

### **Policy Justification**

At the policy level, the study will prove useful to internationalized conflict managers and policy makers not only in Kenya but other parts of the world where effective conflict management is required. In addition, this study is expected to influence policy formulation and review. It operates on the understanding that effective conflict management requires effective policy and institutional frameworks. Reference to this piece of work by policy makers and analysts will enable them consider reviewing and re-evaluating some of the existing sectoral policies with a view to in-building issues of conflict management, since conflict is a cross-cutting concept.

Indeed, there are numerous interventions in conflict situations in Kenya that have gone unnoticed due to poor documentation or the lack of it. In this sense, therefore, there is little effort to build institutional memory that would enable us document best practices and lessons learnt. This study will therefore, strive to strengthen documentation in this regard and elucidate interest and further research.

## Theoretical Framework

The theoretical framework underpinning this study is the structural violence theory. Structural violence was propounded by Galtung who sees it embedded in the structures of relationships and interactions. Johan Galtung originally framed the term structural violence to refer to any constraint on human potential due to economic and political structures<sup>78</sup>. Unequal access to resources, to political power, to education, to health care, or to legal standing among others, constitutes forms of structural violence. Unfortunately, even those who are victims of structural violence often do not see the systematic ways in which their plight is choreographed by unequal and unfair distribution of society's resources.

The centre of this debate revolves around subjectivist and objectivist. The subjectivist strand posits that for a conflict to exist, it must be perceived by the parties in such a conflict situation. The likes of Curle on the other hand, argue that conflict can exist without the awareness of the actors.<sup>79</sup> Structural violence is almost always invisible, embedded in ubiquitous social structures, normalized by stable institutions and regular experience. Structural violence occurs whenever people are disadvantaged by political, legal, economic or cultural traditions. Because they are longstanding, structural inequities usually seem ordinary, the way things are and always have been. Structured inequities produce suffering and death as often as direct violence does, though the damage is slower, more subtle, more common, and more difficult to repair. I submit that this has been the experience in Mt. Elgon.

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<sup>78</sup> J. Galtung, 'Violence, Peace and Peace Research' *Journal of Peace Research*, Vol.3 (1969) pp.167-191; and also J. Galtung, 'Cultural violence' *Journal of Peace Research*, Vol.27 (1991) pp.291-305.

<sup>79</sup> A. Curle. *Making Peace*. (London: Tavistock Publications, 1971) p.1

These two strands notwithstanding, the starting point of structural violence is that an emphasis must be given to the whole since this has an impact greater than the sum of its parts. This implies that we cannot ignore the effect of structural factors when considering questions of conflict and change. The Mt. Elgon conflict is about issues of structures which need to be addressed. Hence this study will benefit from this theory by looking at the interconnectivity of the various issues at stake in the Mt. Elgon conflict.

Structural violence is problematic in and of itself, but it is also dangerous because it frequently leads to direct violence. Those who are chronically oppressed are often, for logical reasons, those who resort to direct violence. Organized armed conflict in various parts of the world, as was the case for Mt. Elgon that saw the formation of armed youth groups, is easily traced to structured inequalities.

While structural violence often leads to direct violence, the reverse is also true, as brutality often terrorizes bystanders, who then become unwilling or unable to confront social injustice. Increasingly, civilians pay enormous costs of war through death and devastation of neighbourhoods and ecosystems. Ruling elites rarely suffer from armed conflict as much as civilian populations do, who endure decades of poverty and disease in war-torn societies. When social inequities are noticed, attempts are made to rationalize and understand them.

This study argues that structural violence is not inevitable if we become aware of its operation, and build systematic ways to mitigate its effects. This research makes use of this theory to encourage both the ruled and the ruling elites to step beyond guilt and anger, and

begin to think about how to reduce structural violence. There is need to empower communities in addressing the structures and social relationships that breed structural violence as a sure footpath to building lasting peace.

### **Research Hypotheses**

This study hypothesizes that:

- i. the recurrent conflict in Mt. Elgon District mainly revolves around the land question.
- ii. the approaches to conflict management in the Mt. Elgon conflict are ineffective because they are settlement-oriented rather than resolution-oriented.

### **Research Methodology**

This section gives details on the research methodology used during this study. It identifies the research design and various sources of data relevant to the study.

### **Research Design**

This study relies on both primary and secondary data for collection of information. The study also employed case study type of research design. This is because the study seeks to apply the concepts of related to track one and track two approaches to conflict management on a particular conflict, that is, the conflict in Mt. Elgon District in Kenya.

A case study entails the detailed and intensive analysis of a single case.<sup>80</sup> Case study research investigates the complexity and particular nature of the case in question. A case is commonly associated with a location, such as a community or organization. The emphasis in a case study tends to be upon the intensive examination of the setting.<sup>81</sup>

The conflict in Mt. Elgon District was selected as a critical case because it allowed a better understanding to the circumstances in which the clearly specified study hypothesis was measured against. This particular conflict was also an exemplifying case because it provided a suitable context for research questions to be answered.

A case study also allows for an intensive examination of a single case in relation to which a theoretical analysis is done. That is, how well the data collected supports the theoretical arguments that are generated. It also allows for longitudinal research that compares phenomena over a period of time. Concomitantly, it illuminates social change and improves the understanding of causal influences over time. Analysis of archival information and retrospective interviewing increases elements of longitudinal research into case study research.<sup>82</sup>

However, a standard criticism labeled against case study research design is that findings derived from it cannot be generalized. External validity or generalization of case study research is highly debatable. It is highly doubted that a single case can be representative so that it might yield findings that can be applied more generally to other cases.

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<sup>80</sup> Ibid. p. 48.

<sup>81</sup> Ibid. p. 49.

<sup>82</sup> Ibid.

## Sampling Design

In the collection of primary data, this study employed purposive or judgmental sampling. This kind of non-probability sampling involves purposive or deliberate selection of particular units of the universe for constituting a sample that represents the universe.<sup>83</sup> Specifically the study used convenience sampling because population elements shall be selected for inclusion in the sample based on the ease of access.

Given that the study focuses on the assessment of the conflict management approaches used in addressing the conflict, the population of this study revolved around key Government Ministries and Departments charged with security and coordination of humanitarian issues such as the Ministry of State for Provincial Administration and Internal Security, Ministry of State for Special Programmes, and the Ministry of State for Defence. Other non-Governmental entities that formed the sample population of this study were the United Nations Offices in Nairobi (UNON), the development partners especially Inter-Governmental Organizations, Non-Governmental Organizations, as well as the media.

It was believed that these units have considerable information about the Mt. Elgon conflict. In this regard, therefore, convenience sampling was advantageous because it allowed for selection of only those respondents who were available for inclusion in the sample. This saved on time and resources that were available to undertake the study. Despite these advantages, the study was cognizant of the fact that convenience sampling suffers a

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<sup>83</sup> C.R. Kothari, *Research Methodology: Methods and Techniques*, 2<sup>nd</sup> edition (New Delhi: New Age International Publishers, 2004) p. 15.

drawback where it may give biased results particularly when the population is not homogenous.<sup>84</sup>

### **Primary Data Sources**

During the collection of the primary data, this study employed both structured and semi-structured interviews. This is a method where the interviewer's role is engaged and encouraging but not personally involved. The interviewer facilitates the interviewees to talk about their views and experiences in depth but with limited reciprocal engagement or disclosure. One strong point of this method is that although the interviewer has some established general topics for investigation, the method allows for the exploration of emergent themes and ideas rather than relying only on concepts and questions defined in advance of the interview.

Since the respondents are professionals in their areas of specialization, the high level of flexibility offered by semi-structured interview allowed for extraction of more information without limitations. With limited direction from the interviewer, the respondents were encouraged to relate their experiences, to describe whatever events seem significant to them, to provide their own definitions of their situations, and reveal their opinions and attitudes as they see fit. This kind of data collection method allows the interviewer a great deal of freedom to control the interview situation and to probe various areas and to raise specific queries during the course of the interview.<sup>85</sup>

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<sup>84</sup> Ibid.

<sup>85</sup> C. Frankfort-Nachmias, and D. Nachmias, *Research Methods in the Social Sciences*, 5<sup>th</sup> edition (London: Arnold, 1996) p. 235.

Through semi structured interviews, complex questions and issues can be discussed and clarified in-depth. This is because the interviewer can probe areas suggested by the respondent's answers, picking-up information that had either not occurred to the interviewer or of which the interviewer had no prior knowledge. The complex character of the issues in the Mt. Elgon conflict made this method of data collection the most suitable in this study.

However, personal interviews have attracted a series of criticisms. Some of the criticisms labeled against personal interviews include high costs in terms of the time to be spent during interviews and the traveling expenses to be incurred in reaching the respondents. Nonetheless, the very flexibility that is the main advantage of interviews leaves room for interviewer's personal influence and bias. Interviews also lack anonymity as compared to other methods like mail questionnaires.<sup>86</sup> In addition, the method is dependent on the skill of the interviewer (the ability to think of questions during the interview, for example) and articulacy of respondent.

### **Secondary Sources of Data**

Data collection in this study also included analysis of secondary data that has already been collected and analyzed by others and stored in libraries or archives, both in hard copies and electronic versions. As such, data collection involved analysis of various publications by Government, UN agencies, Non-Governmental Organizations, Inter-Governmental Organizations. Further to these online journals, books, specialized magazines, articles and feature stories in newspapers with wider circulation and readership, relevant papers presented

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<sup>86</sup> Ibid. p. 238.

at national, sub-regional, regional and international fora, and reports and projects prepared by research scholars were also used.

Secondary data analysis has the advantage of saving the researcher from problems that are associated with collection of original and primary data like extensive traveling and field risks. Moreover, secondary data is readily and cheaply accessible in the libraries and archives, and more so, in analytical form. Nonetheless, some of the drawbacks associated with secondary data include inadequacy and inaccuracy of the data especially because of the changes in the field after completion of such sources as books or project papers.<sup>87</sup> Some secondary sources especially government publications might be doctored or even barred from the public for sometime leading to delays in the research.

### **Data Processing and Analysis**

Many times, data collected from field studies are raw and can only make sense once analyzed. The raw data collected during this study was first edited for quality assurance. The process of editing involved examination of the collected raw data to detect errors and omissions and to make corrections where possible. Editing assured that the data were accurate, consistent with other facts gathered, uniformly entered, as complete as possible and well arranged to facilitate analysis.<sup>88</sup> After editing, the data was subjected to thematic analysis to reflect the various themes of the study. All the information gathered was examined in relation to the hypothesis of the study to see if the hypothesis with a view to validate the hypothesis.

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<sup>87</sup> Ibid. p. 238.

<sup>88</sup> C.R. Kothari. op. cit. p. 122.

## **Limitations of the Study**

This study makes use of the Mt. Elgon conflict to argue for the need for an integrated and multi-faceted approach to conflict management. The conflict in Mt. Elgon has undergone a series of stages through which certain dynamics have been brought to the fore. It has elicited several issues, interests and actors. The study thus seeks to assess the effectiveness of the conflict management approaches to this conflict.

## **Chapter Outline**

This study has five Chapters, whose outline is as shown herein:

**Chapter One : Background to the Study**

**Chapter Two : Debates on Conflict Management Approaches by State and Non-State Actors**

**Chapter Three : Land-Based Conflict: The Mt. Elgon Case Study**

**Chapter Four : A Critical Analysis of the Effectiveness of the Conflict Management Approaches by State and Non-State Actors in the Mt. Elgon Conflict**

**Chapter Five : Conclusions and Recommendations**

## **CHAPTER TWO**

### **DEBATES ON CONFLICT MANAGEMENT APPROACHES**

#### **BY STATE AND NON-STATE ACTORS**

##### **Introduction**

For a long time, scholars, policy makers and practitioners have engaged in serious discourse regarding the effectiveness of conflict management approaches. This discourse has often revolved around the actors involved as well as the methodology employed. Further, it has looked at the factors that determine the success or failure of such conflict management approaches. This Chapter looks at the raging debates regarding the approaches to conflict management by state and non-state actors. It explores the dynamism of conflict that necessitates the adoption of appropriate conflict management approaches. It discusses track one and track two mediation, the nature of the mediation process and brings out the outcomes resulting from these approaches, whether settlement or resolution-oriented.

##### **Debates on Conflict Management Approaches**

Conflict management approaches can be categorized into two main types based on the level of formality involved. This means that conflict management can either be highly formal, also referred to as official mediation; or it can be informal, also referred to as unofficial mediation. The choice between which approach to use depends on the actors in the conflict, the stage at which the conflict has evolved, the circumstances and issues surrounding the conflict, the resources available, among others. For instance, when a conflict gets

transformed, unofficial measures do not have enough effect on its management process. It might require that synergy is created and linkages established with states and international organizations that have leverage so as to arrive at possible solutions or settlements. For the purpose of this study, the terms conflict management and mediation will be used interchangeably.

### **Debates on Conflict Management by State Actors**

Official diplomacy, most commonly referred to as “Track One Diplomacy” was coined by Montville, a former diplomat, who distinguished traditional diplomatic activities from unofficial, informal interaction between members of adversarial groups under Track Two Diplomacy.<sup>1</sup>

For a very long time, Track One conflict management that typically entails government-to-government diplomacy has been the most dominant and visible approach in international relations. Mwangi<sup>2</sup> observes that for a long time, international relations did not recognize the role of non-state actors since states were perceived to be the dominant actors in matters of war and conflict, which were perceived to be matters of high politics. Morgenthau also adds that in fact, states were the only actors in international relations<sup>3</sup>. International Law also recognizes very little role of non-state actors in conflict management, save for their engagement on *ad hoc* basis.

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<sup>1</sup> See J. Montville, ‘Trans-nationalism and the Role of Track Two Diplomacy’, in W. S. Thompson et al (eds), *Approaches to Peace: An Intellectual Map* (Washington,DC:US Institute of Peace Press,1991) p.262.

<sup>2</sup> See M. Mwangi, *Conflict in Africa. Theory, Processes and Institutions of Management* op.cit. p.120.

<sup>3</sup> H.J. Morgenthau. *Politics Among Nations: The Struggle for Power and Peace*. (New York: McGraw Hill, 1993) p.213.

States actors are and remain one of the most successful and enduring forms of social and political organization. They do so because they offer a measure of political and economic security and are still widely revered as the most significant actors in international politics, and by extension, international mediation. Bercovitch argues that the system of diplomacy that we have today has evolved around the state. States often engage top bureaucrats, decision-makers and other influential or eminent personalities in representing them in mediation process.

The influence of states in the international system determines their capacity in the mediation process. For example, Tony Blair, the former British Prime Minister was appointed the ambassador for the Middle East. Similarly, the United States took a leading role in the mediation process for the India-Pakistan, Iraq-Kuwait, Northern Ireland, and Sudan conflicts. Track One activities range from official and non-coercive measures such as good offices, fact-finding missions, facilitation, negotiation, mediation, peace-keeping to more coercive measures such as power-mediation, sanctions, threats of sanctions, peace-enforcement and arbitration.<sup>4</sup>

The role of the United Nations and other international organizations as official actors cannot be over-emphasized. International organizations, notably the United Nations still play an important role in managing post-Cold War conflicts. The UN Secretary-General and his representatives exercise good offices in many parts of the world. They have made important

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<sup>4</sup> See Chapter VI, Article 33 Charter of the United Nations. See also K. Skejlsbaek & G. Fermann, 'The UN Secretary General and the Mediation of International Disputes' in Bercovitch, J (ed), *Resolving International Conflicts: The Theory and Practice of Mediation*, (Boulder, CO. & London: Rienner, 1996) pp.ch.4.

contributions to the settlements in El Salvador, Cambodia, Mozambique, and even Kenya.<sup>5</sup> According to the UN Charter, the Secretary-General has a political function to "... bring to the attention of the Security Council any matter which in his opinion may threaten international peace and security."<sup>6</sup> It suffices to note that the UN's legitimacy contributes to its special role and its resolutions as pronounced by the UN Security Council from time to time, sometimes play an important role in setting out principles for settlements. However, it is common knowledge that the UN performed dismally in Rwanda, Bosnia and continues to fear engaging in Somalia after a big fall.

Track one mediation deals with official representatives of governments either individual governments or under the auspices of regional organizations like the United Nations ((UN), Inter-Governmental Authority on Development (IGAD), Eastern Africa Community (EAC), Southern Africa Development Co-operation (SADC), Economic Community for Western Africa States (ECOWAS), The Arab League, Maghreb and so on.<sup>7</sup>

Track one diplomacy has always been a more visible form of conflict management due to its more leverage, in terms of power and resources, than informal diplomacy because it may be supported by several states that may exert certain pressure on conflicting parties to address their conflict. The Kenyan example still stands out here. During the Kenya National Dialogue and Reconciliation (KNDR) process in 2008, the combined efforts of states such as the United States and regional organizations such as the European Union (EU), African Union

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<sup>5</sup> For a review of the role of the UN as a conflict manager, see G.Berridge, *Return to the UN*, (London: Macmillan, 1991); and A.Parsons. *From Cold War to Hot Peace: UN Interventions, 1947-1995*, (London: Penguin, 1995).

<sup>6</sup> This mandate is expressed in Article 99 of the Charter of the United Nations.

<sup>7</sup> Chapter VIII, Article 52 of the Charter of the United Nations provides for regional organizations' involvement in conflict management.

(AU), EAC and IGAD worked in mounting pressure towards reaching an agreement by the parties in conflict.<sup>8</sup>

However, it is important to point out that track one diplomacy suffers a number of limitations. First and foremost, is its limitation with regard to pervasiveness of power, time pressures and pressure from the public gaze and visibility.<sup>9</sup> Since track one diplomacy is characterized by power and its manipulation, it results in peace agreements that reflect the power balances of the parties after bargaining. Being a zero-sum game where a gain for one party means a corresponding loss for the other, bargaining can only lead to a temporary settlement that is bound to change once the weaker party becomes stronger.

But some scholars like Mwangi note that sometimes it is better to achieve any agreement that can reduce severity of the conflict especially if resolution appears inconceivable in the near future. He cites the move by the Government to “agree” to increase the salaries of teachers during the infamous teachers strike in 1997 only to renege on it years after the elections had been conducted.<sup>10</sup> The government acted to resolve a political impasse in the face of an impending general election. It also wanted to sound sensitive to the national examinations that were to be taken then, as well as to the plight of the teachers. However, this only served to settle the conflict rather than resolve it.

Further, since track one mediation takes place in full public gaze due to the high official and political levels at which it is conducted, it raises a lot of expectations as both the mediator and the parties work against time to deliver outcome. Concomitantly, pressure from

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<sup>8</sup> Interview with a senior official at the United Nations Office in Nairobi (UNON) held on 24/09/2009.

<sup>9</sup> See M. Mwangi, *op. cit.*

<sup>10</sup> M. Mwangi, *Conflict in Africa: Theory, Processes and Institutions of Management*, *op. cit.*, p.40

constituents together with public opinion often leads to the “negotiator’s dilemma” where there is need to satisfy both the constituents and the antagonistic parties so as to enable the mediation process move proceed.

Additionally, track one mediation operates under the pressure of time because of the desire for quick results of ‘success’ that are designed to satisfy the rising expectations of the entire public. More often than not, the constituents exert pressure on the mediators to deliver certain outcomes. It is common practice around the globe that most of the actors involved in official mediation are high-level officials and politicians, most of who are usually engaged in many other activities leading to shortage of the adequate time to undertake conflict management projects that may require more time to finalize. Such mediators, especially politicians, are also under pressure to achieve results that can earn them electoral mileage.<sup>11</sup> The involvement of Kalonzo Musyoka in the Somali peace process seems to have catapulted his position and ambition to occupy a high political office.

Another classic example of official conflict management includes Kenya’s mediation of the internal conflict in Uganda in 1985 under President Moi. This approach proceeded along traditional power bargaining frameworks between Tito Okello’s Uganda National Liberation Army (UNLA) and Museveni’s National Resistance Movement (NRM). This mediation did not involve any of the other actors within the system. It also did not have unofficial inputs and hence it was short-lived. In his Ph.D. Thesis, Mwangi contends that, since the process was rushed through as the mediator sought to establish his credentials as a regional

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<sup>11</sup> Ibid. pp. 123-125.

peacemaker and statesman, the Uganda Peace Agreement collapsed within a month of its conclusion.<sup>12</sup>

Ramsbotham *et al* argue that states and governments are not always willing to shoulder a mediating role when their national interests are at stake, and where they are, mediation readily blurs into traditional diplomacy and statecraft.<sup>13</sup> They argue that when governments bring coercion to bear to try and force parties to change position, they become actors in the conflict rather than third parties. Nevertheless, coercive or forceful intervention can bring forward the ending of violent conflict in some cases as was the case of Bosnia. In this case, a long duration of absence of the United States in the mediation process had been felt. However, on gaining re-entry into the conflict management process, the United States tacitly built up the Croatian armed forces and sanctioned NATO air strikes on Serb positions in order to force the Dayton settlement<sup>14</sup> However, the question that often arises is whether such coercive interventions can lead to stable peace and also whether imposed settlements really hold. The answer is a resounding No.

While writing on the role of NGOs as actors in Track Two Mediation, Botcharova notes that an inherent weakness of many official initiatives is that they are rational responses to irrational phenomena. In her view then, although the military can successfully suppress military activities and introduce ceasefire, they are not able, not prepared, not equipped and not trained to deal with matters of healing trauma, addressing existing stereotypes, and other

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<sup>12</sup> See M. Mwangi, *The International Management of Internal Conflict in Africa: The Uganda Mediation, 1985* (Ph.D. Dissertation, University of Kent at Canterbury, 1994); see also M. Mwangi, 'Internal Conflict and the Process of Mediation: The 1985 Uganda Peace Process' *East African Journal of Peace and Human Rights*, Vol. 3, No. 2 (1997) pp.171-187.

<sup>13</sup> O. Ramsbotham *et al*, *Contemporary Conflict Resolution*, 2<sup>nd</sup> edition. op.cit.p.171.

<sup>14</sup> *Ibid.*

challenges that must be met for the achievement of sustainable peace and future reconciliation.<sup>15</sup> She argues further that official diplomacy is oriented to a “carrot and stick” policy and to the short-term results achieved through military pressure and is therefore, not an effective conflict management approach that guarantees success.

From the fore-going discussion, it is important to point out that Track One conflict management revolves around power, which occasionally helps in the signing and implementation of peace agreements. However, this is often short-lived. Bargaining is also central to this approach as parties get sucked into trade-offs of interests. In this sense, conflict resolution becomes difficult. Arguably, if well managed, Track One can lead to positive outcomes with win-win situations. Nonetheless, this is dictated by various factors such as leverage of the mediator and the strategies adopted during the mediation process.

Nonetheless, experience all over the world shows that Track One conflict management concentrates on addressing interests at the expense of values. In particular, this pre-occupation with interests leaves the underlying causes of the conflict unaddressed as illustrated in the peace agreements signed in Sudan (1963) and Uganda (1985).<sup>16</sup> The process that led to the signing of the Addis Ababa Agreement in 1963 was facilitated by Milton Obote, who seems to have acted based on security reasons. He feared for the influx of Sudan refugees in Uganda and hastily moved in to mediate. The Agreement never lasted.

It is commonly observed that efforts by individual governments to offer political assistance have typically been rejected by the parties involved in such conflicts. Track One diplomatic

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<sup>15</sup> O. Botcharova, ‘Implementation of Track 2 Diplomacy: Developing a Model of Forgiveness’ in Lederach, P. *Building Peace: Sustainable Reconciliation in Divided Societies*. (Washington, D.C.: United States Institute of Peace Press) p.270. \ 6

<sup>16</sup> See M. Mwangi, ‘Internal Conflict and the Process of Mediation: The 1985 Uganda Peace Process’, op.cit.

efforts have also usually failed to resolve the root causes of these conflicts. Settlements based upon Track One diplomatic efforts typically fall apart when the balance of power in these conflicts changes. Because of the failures of Track One diplomacy, McDonald<sup>17</sup> characterizes Track One diplomacy as a power-based, formal, and often rigid form of official interaction between instructed representatives of sovereign nations. He argues that because of this rigidity, Track One diplomacy cannot effectively be used in resolving intra-state conflicts. He therefore, advocates for Track Two or "citizen diplomacy" as an alternative tool for addressing the root causes of intra-state conflicts.

However, what constitutes successful intervention is itself a matter of debate. For some conflicts, merely avoiding even greater tragedy may count as a success. In defining success, Crocker argues that "the important point is that those who decide to intervene ... have an obligation to develop their own definition of success, and to keep it firmly in kind while labouring to avoid becoming part of the problem and making things worse."<sup>18</sup>

### **Debates on Conflict Management by Non-State Actors**

The concept of Track Two diplomacy has been growing rapidly since the end of the Cold War. In contrast to Track One, Track Two Diplomacy is a less visible form of conflict management even though it plays an extremely important role in effective mediation. It refers

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<sup>17</sup> J.W. McDonald, 'Further Exploration of Track Two Diplomacy', in *Timing the De-Escalation of International Conflicts*, Kriesberg, I & Thorson, S.J (eds) (New York: Syracuse University Press, 1991) pp. 201 – 220; also L. Diamond & J. McDonald., *Multitrack Diplomacy: A Systems Approach to Peace*, 3<sup>rd</sup> Edition. (West Hartford: Kumarian Press, 1996).

<sup>18</sup> See C.Crocker, 'Lessons on Intervention', in *Managing Conflict in the Post-Cold War World: The Role of Intervention*. Report of the Aspen Institute Conference, August 2-6, 1995 (Colorado: Aspen Institute, 1996) pp. 77-88.

to all non-official and non-coercive activities, illustrated by facilitation of consultation. The main actors in this unofficial mediation include outstanding individuals, Non-Governmental Organizations (NGOs), Civil Society Organizations (CSOs), Faith-Based Organizations (FBOs). This approach aims to convey the sense that there are many ways to bring people or contending parties together in addition to official diplomacy. Among influential non-official actors with international repute are Amnesty International, Carter Centre, International Crisis Group (ICG), and the Catholic Relief Services (CRS).

McDonald characterizes Track Two diplomacy as a non-governmental, informal, and unofficial form of conflict resolution between citizen groups which is aimed at de-escalating conflict by reducing anger, fear, and tension and improving communication and mutual understanding.<sup>19</sup> Various UN agencies and NGOs have been able to provide economic and humanitarian assistance in such conflicts, but only with the approval of the governments currently in power. For example, Betty Bigombe, a former Minister in the Ugandan Government and World Bank official, attempted to mediate between Joseph Kony's Lord's Resistance Army (LRA) and the Ugandan Government. Even though not successful, these efforts by a non-official helped in facilitating communication between the two contending parties.

There has been great debate about the contributions of unofficial actors in conflict management. Some scholars praise them noting their potential for developing a broader set of ideas and approaches to address complex conflicts.<sup>20</sup> Track two mediation tries to facilitate

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<sup>19</sup> J. McDonald, "Further Exploration of Track Two Diplomacy," op cit

<sup>20</sup> C. Peck, *Sustainable Peace: The Role of the United Nations and Regional Organizations in Preventing Conflict* (Lanham, Md: Rowman & Little, 1998); Harold Saunders, 'Possibilities and Challenges: Another Way to Consider Unofficial Third Party Intervention' *Negotiation Journal*, No. 11(1995) pp.271-275; Also O. Aall,

communication between conflicting parties by bringing a better understanding of the conflict sometimes using tools such as problem-solving workshops. Informal mediation is particularly useful for conflict resolution at the grass roots level and is considered to be effective for facilitating healing in divided societies than track one negotiation.<sup>21</sup>

One of the underlying ideas behind Track Two diplomacy is that peace needs to be build from below and not only from top down<sup>22</sup>. It therefore, rejects power, formality and protocol associated with Track One mediation. It is this vantage position of nonofficial actors that led to the successful mediation by the World Council of Churches (WCC) in collaboration with the All African Conference of Churches (AACC) in the Sudan conflict in 1971<sup>23</sup>. This initiative resulted in eleven years of relative peace in Sudan. Similarly, The Carter Center's intervention in Haiti, North Korea, Bosnia and the Great Lakes Region are notable.<sup>24</sup> The Norwegian Institute of Applied Social Science (FAFO) is also on record for having engaged both the Palestinians and Israelis because its long-term work on social conditions in the West Bank and Gaza had allowed it to establish a reputation for professionalism and evenhandedness in both government and academia.

Another key feature of this approach is that Track Two allows the involvement of people or organizations who often are influential second-level leaders and civil society actors to interact more freely, but, at the same time, be in a position to have influence on their leadership (the Track One level) as well as in their own communities. Often times, influence goes with some form of power. Rubin advances the view that unofficial actors wield some

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\*What Do NGOs Bring to Peacemaking' in Crocker,C.A et al(eds), *Turbulent Peace: The Challenges of Managing International Conflict*. op.cit., pp.365-383.

→<sup>21</sup> Ibid. pp. 120-140.

<sup>22</sup> For an interesting discussion of this concept, see J.P. Lederach, *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, D.C.: United States Institute of Peace Press, 1997) p.39.

<sup>23</sup> H. Assefa, *Mediation of Civil Wars*, (Boulder: Colo.: Westview Press, 1987).

<sup>24</sup> P. Aall, 'What Do NGOs Bring to Peacemaking?' in Crocker,C.A.et al (eds), op.cit., pp.365-384.

form of power that makes them likeable in Track Two Diplomacy. In his view, these actors have informational power, expert power, referent power, legitimate power reward and coercive power that enable them engage in mediation<sup>25</sup>.

As noted elsewhere in this discussion, power is an important ingredient in mediation. However, failure to acknowledge the role of power and formality in mediation in itself is a weakness. Sometimes, the actors in unofficial conflict management may lack the requisite resources and leverage. It is therefore important that there be a mix of both Track One and Track Two.

Track two mediation has been a less visible form of conflict management because it is not part of power relations and because it is not driven by power or political considerations. Track two conflict management aims at the resolution of conflicts rather than merely settling them. This kind of conflict management is informal since its operations are not guided or influenced by formal structures. Since players in track two diplomacy are not high ranking government officials, they are not bound by any official policies, ideologies and even ultimatums. This enables them to be flexible and act according to the demands of the conflict, rather than those of official stand and power. Because of its informality, track two diplomacy does not have bureaucratic structures and players can interact freely making the whole process more flexible.<sup>26</sup>

It employs problem-solving workshops that are more often flexible and devoid of protocol. It is therefore, argued that because of its non-official and non-coercive nature, Track Two leads

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<sup>25</sup> J.Z. Rubin., 'International Mediation in Context' in Bercovitch, J & Rubin, J.Z (eds), *Mediation in International Relations* (New York: St. Martin's Press, 1992) pp.254-256.

<sup>26</sup> M. Mwangi, *Conflict: Theory, Processes and Institutions of Management*, op. cit., pp. 128-133.

to conflict resolution<sup>27</sup>. When a conflict is getting transformed towards a deadlock or a status of intractability, informal mediation stands out as the best conflict management method especially because of its capacity to sustainably reorient relationships.<sup>28</sup> Tools of track two mediation like problem solving workshops provide a setting in which the parties to the conflict could meet and learn techniques that would enable them to eventually resolve the conflict peacefully.<sup>29</sup>

Problem-solving workshops are sustained attempts at tackling more intractable conflicts between parties. They were developed from the realization that conventional track one methods of third party intervention, which were based on legal and diplomatic traditions, were not highly successful in resolving conflict, especially where masses at grass root level are highly involved and have to be consulted. Track one techniques relied heavily on coercive methods, resulting in solutions based on compromise and imposed by authority arising from both national or international agents.

Ramsbotham *et al*<sup>30</sup> note that problem-solving workshops, initiated by classicals such as Banks, de Reuck, Mitchell, Burton, Nicholson, and Kelman<sup>31</sup>, examine conflicts as problems to be solved, to explore more integrative solutions where both sides might win.<sup>32</sup> They also involve influential but non-official participants; entail holding of meetings facilitated by third

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<sup>27</sup> See Reimann, C. 'Assessing the State of the Art in Conflict Transformation – Reflections From a Theoretical Perspective' in M.K. Juma (ed) *Conflict Prevention, Management and Resolution in Africa: A Reader*. (Pretoria: Pretoria University Law Press, 2009) p.104. Also available online at <http://www.berghof-handbook.net/>

<sup>28</sup> A.J.R. Groom, 'Paradigms in Conflict: The Strategist, the Conflict Researcher and the Peace Researcher,' *Review of International Studies*, Vol. 14, No. 2 (Apr., 1988) pp. 97-115.

<sup>29</sup> B.J. Hill, 'An Analysis of Conflict Resolution Techniques: From Problem-Solving Workshops to Theory,' *The Journal of Conflict Resolution*, Vol. 26, No. 1 (March 1982) pp. 109-138. 31

<sup>30</sup> O. Ramsbotham et al (eds), *Contemporary Conflict Resolution*, 2<sup>nd</sup> edition. op.cit.p.48.

<sup>31</sup> See H.C. Kelman, 'The Problem-Solving Workshop: A Social-Psychological Contribution to the Resolution of International Conflicts', *Journal of Peace Research*, Vol.13 (1976) pp.79-90.

<sup>32</sup> B.J. Hill, op. cit.

parties: joint analysis of likely constraints; joint search of possible solutions to the constraints and building of new relationships.<sup>33</sup>

Track two diplomacy addresses the attitudes of the parties to each other and their perception about their relationship leading to a resolution since perceptual elements of a conflict that are embedded within the parties' psychological relationship with each other.<sup>34</sup> These elements and attributes are critical in providing for resolution of conflict. Track two mediation is also associated with resolution because it is based on in-depth understanding and analysis of the conflict, its processes and management methodologies, making knowledge leverage in this kind of conflict management.<sup>35</sup>

Aall<sup>36</sup> argues that Track Two conflict management has a socializing function. It is argued that the actors involved in Track Two conflict management have a high predisposition to succeed because of the social interaction and networks that they enjoy among communities. Such connections help the mediators overcome the perception that a solution to a particular conflict is imposed by foreigners.

It helps in building bridges between people, building confidence, increasing trust, correcting misperceptions, helping to change the attitudes, fostering mutual understanding and developing a sense of ownership.<sup>37</sup> Such a socializing function works to improve

<sup>33</sup> O. Ramsbotham et al, op.cit.p.48.

<sup>34</sup> D.J.D. Sandole, 'Paradigm, Theories, and Metaphors in Conflict and Conflict Resolution: Coherence or Confusion?' in Sandole, D.J.D and der Merive, H.V. (eds) *Conflict Resolution Theory and Practice: Integration and Application* (Manchester: Manchester University Press, 1993) pp. 3-24.

<sup>35</sup> M. Mwangi, *Conflict in Africa: Theory, Processes and Institutions of Management*, op. cit., pp. 128-133.

<sup>36</sup> P. Aall, op.cit.

<sup>37</sup> J.Bercovitch., K. Huang & C. Teng (eds), *Conflict Management, Security and Intervention in East Asia: Third-party mediation in regional conflict* (New York: Routledge,2008) p.77

communication, and to help change the perceptions of the conflict. It is also a good way to strengthen the voices of moderation and to develop social networks among the moderates on the different sides.

As a long-term conflict management approach, it helps in institutionalizing healing and reconciliation, issues that are usually not adequately addressed by Track One. In doing so, Track Two actors especially NGOs play an important role in providing funding that can support implementation of long-term programmes addressing underlying causes of conflicts. However, the conditionalities associated with such funding may also militate against the conflict management efforts in the long-term. It is possible to point to a number of cases where mediators from NGOs have contributed to transformation of key conflicts, usually in conjunction with government and international organizations. Brilliant examples include Jimmy Carter's Carter Centre in Ethiopia/Eritrea conflict.<sup>38</sup>

Owing to the flexibility of non-official conflict management, NGOs have sometimes been able to adapt their methods to the local culture and can work usefully with one or more parties rather than with all. Lederach, for example, found out that the parties look for trust rather than neutrality in third parties and that an insider partial would be more acceptable than an impartial outsider.<sup>39</sup>

It is further contended that unofficial actors have a deeper understanding of the people and the issues in context. This helps them approach the issues with ease. The value of such

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<sup>38</sup> See M. Ottaway, 'Eritrea and Ethiopia: negotiations in a transitional conflict', in Zartman, I.W (ed), *Elusive Peace: Negotiating and End to Civil Wars* (Washington, DC.: Brookings Institutions, 1995) p.103-119.

<sup>39</sup> See J.P. Lederach, *Preparing for Peace: Conflict Transformation Across Cultures* (New York: Syracuse University Press, 1995).

unofficial and informal contacts between the parties is that they can potentially de-escalate a conflict before any official negotiation can do so, or work as a parallel forum where the parties can explore options without taking an official stand. However, it is also true that the actors may inflame the conflict and therefore be rejected by the very populace thereby adversely affecting their capacity to mediate in the same conflict.

It is a widely accepted phenomenon that at times, such unofficial actors are also part of the problem or conflict hence may remain biased and partial in attempting to resolve the same. Unfortunately, most forms of economic and humanitarian aid generally do little or nothing to resolve the root causes of these conflicts. In addition, unofficial actors often face challenges related to the entry point and ripeness of the moment. Sometimes, it is never clear when it is ripe to intervene. Further, the issue of legitimacy poses serious challenges to unofficial actors just like official actors since they may be treated as partial at any given stage of the mediation process.

In summary, therefore, nonofficial conflict management should not be thought of as a replacement for official conflict management, but rather as an indispensable preparation for and adjunct to them. Ideally, non-official conflict management should pave the way for official negotiations and agreements by encouraging official actors to recognize and utilize crucial information and insights obtained by Track Two. In effect then, a mix of these two approaches paves the way for Multi-Track Diplomacy.

## **Debates on Conflict Management by both Official and Non-Official Actors**

Having looked at both official and unofficial approaches to conflict management, experience around the world shows that the two are inseparable. They have a close link and they work to complement and synergize each other. In this case, there is duality in both approaches that give birth to the third strand, called Multi-Track Diplomacy. In other words, both official and non-official conflict management approaches overlap to a great extent with a view to complementing each other.

There are various examples that illustrate the mix of both tracks. For instance, the conflict resolution process in Norway eventually led to a framework for conflict settlement and subsequently a negotiated agreement between the Israeli government and Palestine Liberation Organization (PLO) in 1993. In this process, a Norwegian scholar and his wife hosted and facilitated these secret talks in 1992 between Israeli and PLO officials, each of whom enjoyed top-level access while maintaining their independence. The attainment of a reasonably co-operative relationship between these two adversarial parties, before the actual start of the formal negotiations, proved to be not only crucial to the success of the negotiation process itself, but also clearly illustrated the rather limited potential of conflict settlement strategies such as power mediation or power bargaining when they are attempted in isolation.<sup>40</sup>

Within the African context, the mediation by the World Council of Churches (WCC) and its affiliate AACC in the Sudan conflict in 1971 that led to the Addis Ababa Agreement in

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<sup>40</sup> Ibid p.105

1972<sup>41</sup>; and NCKK in 1990 illustrate this point. Nonetheless, these interventions also had their shortcomings since they did not alter the views of the parties about each other. It is also argued that these organizations adopted Track Two Mediation whose basis is balance of power. The approach used therefore, was not suitable for the actors, hence it did not succeed. The underlying assumption behind this analysis is that very few conflict management strategies will be fully effective by an exclusive reliance on either Track One or Track Two framework.

It is worth noting therefore that since the early 1990s, literature has focused on the inter-relatedness and interdependence of both Track One and Track Two with emphasis on an integrative and complementary approach to conflict management. It underscores the importance of a combination of conflict settlement strategies such as mediation and negotiation with conflict resolution strategies such as facilitation and consultation.

Thus, there is a recognition that actors in Track Two can also work in close collaboration with Track One. Actors in Track Two are often seen working as a support structure and test-laboratory for Track One where the ability to create new ideas and innovations is often seen as limited. Nonetheless, such a conscious combination must take into consideration the political and social priorities that will emerge at various stages of conflict escalation and de-escalation. At this point, I wish to submit that the greater the level of conflict escalation, the more directive the intervention must be in order to be effective.

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<sup>41</sup> See H. Assefa, *op. cit.*; and

## Conflict Transformation

A comprehensive discussion of the approaches to conflict management cannot be complete without looking at the transformation of conflicts. This is because conflicts are dynamic processes that need to be effectively understood, analyzed and managed.

Conflict transformation entails the creation of new situations in the dynamics of conflict with or without intervention of external influence.

Vayrynen<sup>42</sup> demonstrated that the involvement of different actors in any given conflict facilitates its significant transformation. Conflict dynamism necessarily leads to conflict transformation. This kind of transformation is caused by the involvement of different actors who help in the transformation of the issues at stake, interests of the actors, structure of the conflict and the rules of engagement for the various actors involved in its management. This implies that since conflicts are dynamic processes, the dynamism must be reflected in both their analysis and management processes.<sup>43</sup>

The argument advanced by Vayrynen<sup>44</sup> illustrates that conflict transformation may occur in different ways that include the transformation of the actors, the rules of engagement, the interests of the actors, as well as the structure. Actor transformation means either internal changes in major parties to the conflict or the appearance and recognition of new actors. Internal transformation may be predicated on the idea that the convergence of the domestic

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<sup>42</sup> R. Vayrynen, 'To Settle or to Transform? Perspectives on the Resolution of National and International Conflicts' in Vayrynen, R (ed) *New Directions in Conflict Theory: Conflict Resolution and Conflict Transformation* (London: Sage Publications, 1991) pp. 1-25. 43

<sup>43</sup> M.Mwagiru, *Conflict in Africa: Theory Processes and Institutions of Management*, op.cit also advances this position. 44

<sup>44</sup> Ibid.

organization of parties lessens the probability of violence while polarization of the same increases the probability of violence.

Transformation can be regarded as the movement from latent conflict to confrontation to negotiation.<sup>45</sup> This means that the situation in which a conflict starts changes as the conflict progresses thereby leading to changes in the issues, perceptions and relationships.

Transformation of a conflict also entails a change in structure of the conflict. Wall defines structure of conflict as comprising the actors, the mediator, the constituents and their allies.<sup>46</sup>

As a conflict evolves and progresses, its structure undergoes a continuous change that sees the entry of new actors, both visible and invisible, who bring with them new issues, interests, perceptions and even allies.<sup>47</sup> There are a plethora of definitions that have been accorded the term conflict transformation. These definitions are as apportioned by various scholars in this field. For example, on the one hand, Wall,<sup>48</sup> Levy,<sup>49</sup> Tures,<sup>50</sup> and Vayrynen<sup>51</sup> explain conflict transformation in terms of changes in the structure of the conflict. On the other hand are scholars who demonstrate that conflict transformation involves a shift from latent or structural conflict through manifest or direct conflict to peacebuilding.<sup>52</sup>

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<sup>45</sup> H.W. Jeong, *Peace and Conflict Studies: An Introduction*, op. cit., p. 37. 4-5

<sup>46</sup> J.A. Wall, 'Will New Blood in the Leadership Produce New Blood on the Battlefield? The Impact of Regime Changes on the Middle East Military Rivalries,' *Journal of Conflict Resolution*, Vol. 25 (1981) pp. 157-180 46

<sup>47</sup> H. Mwangi, op.cit. p.95-102.

<sup>48</sup> J.A. Wall, 'Will New Blood in the Leadership Produce New Blood on the Battlefield? The Impact of Regime Changes on the Middle East Military Rivalries,' op.cit. 4-8

<sup>49</sup> J.S. Levy, 'Theories of Interstate and Intrastate War: A Levels of Analysis Approach,' in C. A. Crocker, et al, (eds.) *Turbulent Peace: The Challenges of Managing International Conflict*, (Washington: United States Institute of Peace, 2001) pp. 3-27. 4-9

<sup>50</sup> J.A. Tures, 'Will New Blood in the Leadership Produce New Blood on the Battlefield? The Impact of Regime Changes on the Middle East Military Rivalries,' *Middle East Journal*, Vol. 58, No. 4, (Autumn, 2004) pp. 612-635.

<sup>51</sup> R. Vayrynen, op. cit.

<sup>52</sup> Among these are J. Galtung, 'Violence, Peace and Peace Research' *Journal of Peace Studies*, Vol. 6, No. 3 (1969) pp. 167-191; R.K. Merton, *Social Theory and Social Structure*, (New York: Free Press, 1968); J.P. Lederach, *Building Peace: Sustainable Reconciliation in Divided Societies*, (Washington, D.C.: United States

Ramsbotham et al support Varynen's view and argue that there are actors who enter a conflict as third parties, whose entry is essential in contributing to the transformation of issues in conflict.<sup>53</sup> In a well articulated argument, third parties typically help the conflicting parties by putting them in contact with one another, gaining their trust and confidence, setting agendas, clarifying issues and formulating agreements. They can facilitate meetings by arranging venues, reducing tensions, exploring the interests of the parties and guiding the parties in developing possible options to resolve their own conflict.

Levy<sup>54</sup> argues in the same vein as Vayrynen and advances that conflict transformation, whether intentional or unintentional, has profound effects on the management efforts of a given conflict. For instance, if the domestic organization of the parties to the conflict gets changed from dictatorship to democracy, the management efforts of such a conflict will have higher chances of success. This is because democracies rarely if ever go to war with each other, hence the notion of democratic peace.<sup>55</sup>

Levy aptly advances the view that change in leadership of the parties to the conflict may also see new leaders who are either war mongers or those committed to peace.<sup>56</sup> The change from hard-line or extremist leadership to that of a moderate one or vice versa transforms the direction of a conflict. In such a scenario, whenever faced with a conflict, moderate leadership is susceptible to peaceful resolution. In cases where change in leadership leads to

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Institute of Peace Press, 1997) p. 63.; A. Curle, *Making Peace* (London: Tavistock, 1971); R. Mudida, 'The Security-Development Nexus: A Structural Violence and Human Needs Perspective' in K. Brockmann, H. B. Hauck and S. Reigeluth (eds), *From Conflict to Regional Stability: Linking Security and Development* (Berlin: DGAP, 2008) pp. 11-22.

<sup>53</sup> O. Ramsbotham et al, op. cit., p. 168.

<sup>54</sup> J.S. Levy, 'Theories of Interstate and Intrastate War: A Levels of Analysis Approach,' op. cit. 52

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

transition from a charismatic leader to a leader whose objective is to mobilize political support from the governed, such a leader is bound to engage in scape-goating.

Tures agrees with Levy and notes that new leaders and new governments tend to generate conflict-prone foreign policies<sup>57</sup>. This means that change in leadership of a party to conflict from an experienced to a new inexperienced leader negatively transforms the conflict towards escalation and management efforts are less successful during this period. In his view, Tures contends that, new governments are prone to go on the offensive against those countries with which they have a pre-existing rivalry.<sup>58</sup> Such disputes are perceived to enable the new leader get footing and domestic standing thereby turning away the general population from more pressing domestic problems and attracting international sympathy and attention.

Further, it can be argued that new inexperienced leaders are less likely than the seasoned ones to drag their country into full-scale conflict or war because such conflicts are not only costly but could lead to the overthrow of the nascent leadership. This argument in favour of new leaders means that new leadership can also positively transform a conflict towards peaceful resolution. The leadership of the United States of America under Barrack Obama illustrates this. Unlike his predecessor George Bush, Obama is keen on nurturing warm and moderate relations with the traditional rivals of the United States who have had frosty relations for a long time. Through his Administration at least in the first year, he led America in warming up to the former adversaries and adopted a diplomatic and rational approach to issues.

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<sup>57</sup> J.A. Tures, 'Will New Blood in the Leadership Produce New Blood on the Battlefield? The Impact of Regime Changes on the Middle East Military Rivalries,' *op. cit.*

<sup>58</sup> *Ibid.*

Curle<sup>59</sup> pours scorn on the idea of change in structure of the conflict and change in leadership of the actors involved, and explains conflict transformation from a different perspective. He argues that conflict transformation is due to change from latent or structural conflict to manifest or direct conflict. He further argues that conflicts are organic and dynamic. Their progression follows distinct stages ranging from latent conflict; to a state of tensions and inconsistencies; to overt action that manifests the conflict. Beyond this stage, there comes either the conflict settlement or resolution stage followed by a long-term stage of peacebuilding. It is worth emphasizing that each of these stages of transformation has different implications on the conflict management approaches and strategies adopted.

In their respective pieces of work, Lederach<sup>60</sup> and Merton<sup>61</sup> reinforce Curle's argument of transformation being as a result of the progression or shift from latent to manifest conflict. They argue that conflict transformation is occasioned by change in the nature of human interaction. They view conflict as being dynamic and dialectical in nature. Using the analogy of the life cycle of human beings, it can rightly be observed that conflicts "are born and also die." By implication, conflicts interact with people. They have a life span that creates social change on humanity. They too have a life cycle or progression pattern.<sup>62</sup>

Mwagiru supports the views expressed by Lederach and Curle. He sees conflict transformation in terms of a distinct life cycle that conflicts follow as they progress from structural to behavioral ones<sup>63</sup>. Mudida reinforces Mwagiru's explanation by asserting that if

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<sup>59</sup> A. Curle, *Making Peace*. op. cit.

<sup>60</sup> J.P. Lederach, *Building Peace: Sustainable Reconciliation in Divided Societies*. op. cit., p. 64. 58

<sup>61</sup> R.K. Merton, *Social Theory and Social Structure* (New York: Free Press, 1968). 57

<sup>62</sup> J.P. Lederach, op. cit., p. 64.

<sup>63</sup> M. Mwagiru, 'Peace and Conflict Management in Kenya,' (Nairobi: CCR-CJPC, 2003) pp. 55-64.

left unattended, structural violence gets transformed to violent behavioral conflict.<sup>64</sup> If peace management is not effectively undertaken, the conflict cycle shifts from the earlier stage of structural violence to the stage of physical or behavioral violence. If conflict management attempts are successful in addressing the physical violence, peace agreements are arrived at, followed by a stage of post-conflict peace building, which once adequately addressed, leads to peace and completes the conflict life cycle.

### **Debates on Settlement and Resolution of Conflict**

Debates about conflict resolution and conflict settlement are about the merits of opposing approaches of conflict management. They are also about contending views about the international system and the forces prevalent in it. Mwangi notes that the debate is also about the nature of human beings and society and about how best relations with one another can be managed effectively.<sup>65</sup> A look at these two main outcomes of conflict management processes is relevant to this study since it will provide insights as to the effectiveness of the conflict management approaches used by actors in the Mt. Elgon conflict. In many cases, conflicts are either settled or resolved based on the conflict management approaches used.

Groom, a renowned author, has an interesting piece of work on resolution and settlement of conflicts. Groom identifies three main approaches to conflict, namely those of the strategist, the conflict researcher and the peace researcher.<sup>66</sup> According to Groom, both the strategist and conflict researcher hold the assumption that human beings have the urge to dominate.

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<sup>64</sup> R. Mudida, 'The Security-Development Nexus: A Structural Violence and Human Needs Perspective', op.cit.

<sup>65</sup> M. Mwangi, *Conflict in Africa: Theory, Processes and Institutions of Management*, op.cit p.38.

<sup>66</sup> A.J.R. Groom, 'Paradigms in Conflict: the Strategist, the Conflict Researcher and the Peace Researcher' in Burton, J & Dukes, F., (eds), *Conflict: Readings in Management and Resolution* (London: Macmillan, 1990) pp.71-98. 62

This domination is anchored on the drive to have power. However, in an effort to address this, the strategists resort to settlement of conflict through coercion or deterrence. The conflict researchers on the other hand have a bird's eye view of the conflict. They focus on resolution of the conflict where focus is on legitimizing relationships between the contending parties with a view to ensure they are self-sustaining. In order to realize such a new order of interactions, conflict researchers provide a supportive framework for the parties to work towards resolution of their conflict.

Groom argues that unlike conflict research, peace research adopts a structural approach. It focuses on the deep-rooted structure which gives rise to conflict. This paradigm rejects the facilitation of parties to a conflict with a supportive framework as propounded by conflict research. Instead, like the strategists, peace researchers embrace threat systems that encourage polarization of conflicts so as to create an environment for its resolving the conflict. In this case, it provides the so called 'carrot and stick method' that resorts to organized violence with a view to addressing the anomalies in societal structures. Such a method employs an admixture of resettlement and resolution as has been the case in the protracted Arab-Israeli conflict. This conflict has land, religion and ideology as some of its main causal factors and has attracted many actors over time each making an entry with a different approach skewed towards either settlement or resolution.

Similarly, the Sudan<sup>67</sup> and Somali conflicts have seen a plethora of mediators each applying approaches that have not served to address the structural causes. Most of the approaches have merely and hastily focused on signing of peace agreements on power sharing that have often

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<sup>67</sup> See *Peace, Conflict and Development*, Issue No. 4 (April 2004), p.9. A more comprehensive list of the peace talks and documents can be found at [http://www.sudansupport.no/english\\_pages/peace-processes.html](http://www.sudansupport.no/english_pages/peace-processes.html) (20 December, 2008).

been broken even before the ink dries up or not implemented to the satisfaction of all the parties to the conflict.<sup>68</sup>

Mwagiru reiterates Groom's views by arguing that settlement of conflict is anchored on the notion of power while resolution rejects power as the dominant framework for managing social relationships. In his view, conflict settlement does not address the root causes of the conflict. It merely re-adjusts and regulates conflict relationships.<sup>69</sup> In such a situation, the weaker party accepts the outcome simply because it has no power to contest it. For instance, the Kofi Annan reconciliation efforts during Kenya's 2007 post-election violence worked towards conflict settlement between the main parties, namely Orange Democratic Movement (ODM) and Party of National Unity (PNU).

The two Principals, Mwai Kibaki of PNU and Raila Odinga of ODM were facilitated in sharing political power by signing the "Agreement on the Principles of Partnership of the Coalition Government" on 28<sup>th</sup> February, 2008 as contained in the National Accord and Reconciliation Agreement (NARA) that paved the way for the formation of a Coalition Government. This worked in returning the country to normalcy. However, since then, there has been a slow pace of healing and reconciliation efforts, most of which remain *ad hoc*<sup>70</sup>. In addition, implementation of reforms under the famous Agenda Item 4 has been progressing rather slowly yet effective implementation of these reforms would lead to resolution of most of Kenya's conflicts since they address structural, underlying and deep-seated issues.

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<sup>68</sup> For an excellent analysis of the various empty promises made by the North to the South in the Sudan conflict, see, for instance, A. Alier, *Southern Sudan: Too Many Promises Dishonoured*, (Reading: Ithaca Press, 2003). \* 64

<sup>69</sup> M. Mwagiru, *op. cit.*

<sup>70</sup> See Southern Consulting, 'Kenya National Dialogue and Reconciliation (KNDR) Monitoring Project. Status of Implementation of Agenda Items 1-4. Third Review Report', July 2009. p.19 66

On the other hand, conflict resolution does not embrace the notion of power as the basis of relationships, especially in conflict situations. Conflict resolution, unlike settlement, is non-power based and non-coercive. While advancing the Human Needs Theory, Burton observed that human beings find themselves in conflict with others (and with their environment) not because they are “naturally evil” or “naturally aggressive” but because they are “naturally needy”.<sup>71</sup> Their ability to understand the nature of basic human needs and the frustration of such basic needs have on human behaviour lies at the heart of effective conflict management. To effectively and successfully resolve a conflict, there are certain needs that must be fulfilled by both parties in conflict. These needs, such as recognition, identity, participation and dignity, are non-negotiable and must therefore be fulfilled since they touch on the heart of the parties in conflict. They must therefore be resolved with a view to have the conflict resolved.

### **Debates on Ripe Moments for Management of Conflicts**

Effective management of conflict largely depends on the moment at which the conflict management process commences. This section looks at the debates on the ripe moments for conflict management. It is envisaged that the debate will illuminate the timing with which actors have entered in the management of the conflict under investigation. The section provides salient examples from across the world with a view to drive the point home.

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<sup>71</sup> J. W. Burton., *Conflict resolution as a political system. Working Paper* (Centre for Conflict Analysis and Resolution: George Mason University, 1989); also J. W. Burton (ed), *Conflict: Human Needs Theory* (London: Macmillan, 1990).

It is widely noted that while most studies on the management of conflicts have focused on the substance of mediation, the timing of the mediation is crucial to the effective management of conflicts. It is generally acknowledged that parties only resolve their conflict only when they are ready to do so. In the light of this argument therefore, the concept of conflict transformation and the concept of ripe moment are intertwined.

Zartman adopted the theory of ripe moment in illustrating how ripe conflicts can be to allow for intervention. He argues that conflicts do change either in ways that make their management more tenable or in ways that are inimical to such management.<sup>72</sup> This is because of the fact that the change from unripe moments to ripe moments cannot be achieved without transformation of the conflict. It follows from this argument that it is only with the critical analysis of a conflict that a clear identification of its ripe moment can accrue. Consequently, with the identification of the ripe moment, effective management of the conflict can be undertaken.

A ripe moment is that point in the progression of a conflict where the prevailing circumstances in the conflict render the parties most ready to address their conflict. Zartman posits that it is during such ripe moments that parties are most amenable to proposals that offer a way out.<sup>73</sup> Owing to the fact that conflict is dynamic, there are various moments of the conflict cycle through which conflict progresses. These moments, according to Zartman are mutually hurting stalemate; imminent mutual catastrophe; entrapment; and, enticing opportunity.<sup>74</sup>

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<sup>72</sup> I.W. Zartman, *Ripe for Resolution: Conflict and Intervention in Africa*, (New York: Oxford University Press, 1989) p. 10.

<sup>73</sup> Ibid.

<sup>74</sup> Ibid.

According to the model of mutually hurting stalemate, parties in conflict are most likely to consider mediation when they anticipate a long period of continued costly conflict, with a low probability of achieving their goals. When the parties find themselves locked in a conflict that is seen to be costly and painful to both of them and none can gain victory, they seek an alternative policy or way out. Zartman<sup>75</sup> compares this stalemate to a plateau, an unending terrain without relief. The mutually hurting stalemate is grounded in cost-benefit analysis, which is consistent with public choice notions of rationality.

According to this theory, a party will pick the alternative that is best for itself at the lowest costs. This means that a decision to change is induced by increasing pain or costs associated with the present course of the conflict thereby making the parties change the rational choice from a cost-benefit point of view. The Kenyan post-election violence candidly illustrates this. Both the ODM and PNU realized that they could not go on and gain victory even if legal redress would have been sought in managing the disputed presidential election results of the December 2007 general elections. Both parties had to relent and agree to mediation under the former UN Secretary General Kofi Annan in 2008.

However, the mutually hurting stalemate model is a highly subjective model because it relies on the individual perception of the parties about the stalemate. It is possible that one party can recognize an impasse while the other does not, a fact that makes the model inadequate and wanting.<sup>76</sup> Mwagiru adds that ripe moment is subjective. It is not easy for a third party to know precisely when the ripe moment for mediation is.<sup>77</sup> In real life situations, a mediator

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<sup>75</sup> I. W. Zartman, 'The Timing of Peace Initiatives: Hurting Stalemates and Ripe Moments' in C. A. Crocker, *et al.*, (eds), *Turbulent Peace: The Challenges of Managing International Conflict*, op. cit.

<sup>76</sup> Ibid.

<sup>77</sup> M. Mwagiru, *Conflict in Africa: Theory, Processes and Institutions of Management*, op. cit. p. 117

may either enter a conflict that is not ripe for mediation. In such a case, the mediator is not likely to succeed. For instance, Jimmy Carter's attempt to mediate in the Ethiopia conflict in 1991 did not succeed because it happened at a time when parties were unprepared. The Ethiopian People's Liberation Front (EPLF) was making headway in the military front and could not sit down at a mediation table as it perceived itself winning. Carter's efforts were therefore thwarted because the moment was not ripe. Again, the conflict was in transition sucking in Eritrea.<sup>78</sup>

Second is the model of imminent mutual catastrophe which states that parties to conflict will seek mediation when they face an imminent major catastrophe of one kind or the other.<sup>79</sup> This model is also subjective in nature. Just like in the mutually hurting stalemate model, decision-makers in the parties involved must perceive that they are facing an unavoidable danger such as probable military defeat or economic turn down. Ripe moments under this model are associated with an impending past or recently avoided catastrophe. Such a catastrophe provides a deadline or a lesson indicating that pain can be sharply increased if a significant step or measure is not immediately instituted. Zartman compares a catastrophe to a precipice, the point where things suddenly and predictably get worse.<sup>80</sup> This means that in the course of the conflict, any danger that appears and faces both parties acts as catalyst to the success of management efforts.

The third model is that of entrapment. It focuses specifically on policy formulation and analysis for purposes of decision-making. This model argues that leaders become entangled

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<sup>78</sup> See M.Ottaway, 'Mediation in a Transitional Conflict: Eritrea' in Zartman, I.W (ed), *Resolving Regional Conflicts: International Perspectives* (Newbury Park: Sage Publications, 1991) pp.69-81. 74

<sup>79</sup> I.W. Zartman, 'The Timing of Peace Initiatives: Hurting Stalemates and Ripe Moments', op.cit. 75

<sup>80</sup> Ibid.

in their continued quest for victory even if the cost of such struggle is objectively getting too high. In this case, high costs in terms of deaths, resources spent and so on only justify the continuation of pursuing victory. That is to say, the more the cost, the more the reason to carry on the conflict. Zartman<sup>81</sup> notes that increased pain and costs can increase resistance rather than reducing it. At some point, however, something is triggered especially exhaustion in terms of resources and they re-evaluate their objectives. The main objective therefore changes from damaging the enemy to save the remaining resources. The Somali conflict serves to illustrate this point. The conflict has adverse effects on the country's economy. The war lords involved have never seen the sense to get to resolve this conflict even in the face of the heavy human and capital losses.

The fourth model of ripe moment has to do with enticing opportunity. According to this model, the ripe moment can occur when leaders see a much better alternative way of achieving their goals than to continue with the conflict. At this stage, new options can be opened which can offer more gain than fighting. One example of these new options includes the emergence of a new leadership which is not committed to fighting or which is moderate and flexible enough to enter into successful negotiations. Kleiboer<sup>82</sup> points out that developments within contending parties are critical for emergence of ripe moments. This is because ripeness is a function of internal political changes within groups in conflict, such as a rise of new leaders, the emergence of a divided leadership, or a split in a government previously united in its war aims.

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<sup>81</sup> Ibid.

<sup>82</sup> M. Kleiboer, 'Understanding Success and Failure of International Mediation', *The Journal of Conflict Resolution*, Vol.40, No.2 (June 1996) pp.360-389.

There is a raging debate among scholars and practitioners as to when it is the right time and hence, ripe moment to intervene in a conflict. Zartman<sup>83</sup>, Kriesberg<sup>84</sup> and Haas<sup>85</sup> argue that there are times in a dispute that are more 'ripe' than others for de-escalation and settlement of conflict. Koh<sup>86</sup> demonstrates the life cycle of conflict using the analogy of the clock. He argues that conflicts follow the logic of clock time. The duration of conflict in terms of days, months or years is linked to either the persistence or change of attitudes of the adversaries toward the conflict.

Consequently, ripe moments for entry can either be in the early stages of the conflict or later stages depending on the conflict dynamics. Late entry can lead to successful mediation because failure to reach an agreement can precipitate an emergency. A feeling of emergency will strongly increase the disputants' motivation to moderate their intransigence and revise their expectations. On the other hand, early entry during pre-violence stage -well before the adversaries cross a threshold of violence and begin to inflict heavy losses on each other - can lead to successful mediation because it is still possible to consider possibilities for settlement before the conflict has become too entrenched and the parties too inflexible in their attitudes.<sup>87</sup>

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<sup>83</sup> I.W. Zartman & S.Touval, 'Conclusion: Mediation in Theory and Practice' in S.Touval & I.W.Zartman (eds) *International Mediation in Theory and Practice* (Boulder, Co.: Westview Press, 1985) pp.251-268. 80

<sup>84</sup> L. Kriesberg. 'Timing and the Initiation of De-escalation Moves', *Negotiation Journal*, Vol.3 (1987) pp.375-384. 81

<sup>85</sup> See R.Haas. 'Ripeness and Settlement of International Disputes', *Survival Vol.30* (May/June 1988) pp.232-251. 82

<sup>86</sup> T.T. Koh, 'The Paris Conference on Cambodia: A Multilateral Negotiation that Failed', *Negotiation Journal*, No. 6, (1990) pp. 81-87. 83

<sup>87</sup> M. Kleiboer, 'Understanding Success and Failure of International Mediation', op. cit.

Zartman<sup>88</sup> notes that the timing of efforts for resolution of conflicts is a necessary ingredient in management efforts just as is the substance of the proposals. Parties resolve their conflict only when they are ready to do so. This readiness comes when circumstances of the conflict are such that alternative, usually unilateral, means of achieving a satisfactory result are blocked and the parties feel that they are in an uncomfortable and costly predicament. It is during that time, the ripe moment, that the parties are at the peak of suggestive mood and most receptive to proposals that usually have been in the air for a long time and that only now appear attractive.

Ripeness of a conflict can be equated to a clock that enables us to appraise the right time for initiating the right interventions. Kleiboer<sup>89</sup> posits that conflicts pass through a life cycle that encompasses a number of distinguishable phases, and as such, certain stages are more amenable to mediation than others. This leads to the observation that to be successful, mediation needs to be initiated at such ripe moments. Bercovitch and Houston note that as a social process, mediation can be used to enhance conflict management.<sup>90</sup> Rubin<sup>91</sup> goes ahead and cautions that mediation can be an instrument of destruction if applied universally. It thus has to be context-specific.

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<sup>88</sup> I.W. Zartman, 'The Timing of Peace Initiatives: Hurting Stalemates and Ripe Moments' in C. A. Crocker, *et al.*, (eds) *Turbulent Peace: The Challenges of Managing International Conflict*. (Washington,DC.: United States Institute of Peace, 2001) pp. 19-29.

<sup>89</sup> M. Kleiboer, 'Understanding Success and Failure of International Mediation', *op. cit.*

<sup>90</sup> See J.Bercovitch & A. Houston, 'Why Do They Do It Like This? An Analysis of the Factors Influencing Mediation Behaviour in International Conflicts', *Journal of Conflict Resolution*, Vol.44, No.2 (April 2001) pp.170-202.

<sup>91</sup> J.Z. Rubin, Models of Conflict Management, *Journal of Social Issues*, Vol.50, (1994) pp.33-45.

Edmead<sup>92</sup> argues that mediation is more likely to succeed if attempted early. In his view, mediation should commence well before the adversaries cross a threshold of violence and begin to inflict heavy losses.

Other scholars like Northedge and Donelan, Frei and Rubin advance the view that the ripe moment occurs at a time when there is failure on the part of the parties to reach an agreement thereby precipitating an emergency. In their view, therefore, they support late entry into the mediation process of the conflict.<sup>93</sup> Jackson<sup>94</sup>, Young<sup>95</sup> and Assefa<sup>96</sup> also support this view when they argue that increased intensities of conflict leads to successful mediation. In their view, parties to conflict are likely to accept mediation owing to the fatalities suffered and would therefore want to scale down and reach a compromise. Assefa uses the Sudan conflict to demonstrate how parties had suffered losses through the loss of over 2 million lives.

Skjelsbaek and Fermann take a middle ground for the commencement of mediation. In their view, early timing could make the process unsuccessful. Yet, late intervention may find when the conflict situation has deteriorated and hostile attitudes formed that may make mediation almost impossible.<sup>97</sup> In their view therefore, the best ripe moment occurs at the point of a stalemate or state of mutual exhaustion. Ramsbotham *et al* support this view, using the South

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<sup>92</sup> F. Edmead, *An Analysis and prediction in international mediation* (New York:UNITAR,1971).

<sup>93</sup> For detailed discussion of Classics supporting late entry, see F. Northedge & M. Donelan, *International dispute: The political aspects* (London: Europa, 1971); D. Frei, 'Conditions affecting the effectiveness of international mediation', *Peace Science Society (International) Papers* Vol.26 (1976) pp.7-84; J.Z. Rubin, 'Experimental research on third-party intervention in conflict', *Psychological Bulletin* No.87 (1980) pp.379-91.

<sup>94</sup> R. Jackson, *The Global Covenant: Human Conduct in a World of States* (Oxford: Oxford University Press, 2000) p.46.

<sup>95</sup> See O.R. Young, *The intermediaries: Third parties in international crises* (Princeton, New Jersey: Princeton University Press, 1967) p.34.

<sup>96</sup> H. Assefa, *Mediation in Civil Wars: Approaches and Strategies – The Sudan Conflict* (London: Westview Press, 1987) p. 90.

<sup>97</sup> K. Skejlsbaek & G. Fermann, 'The UN Secretary General and the Mediation of International Disputes' in Bercovitch, J (ed), *Resolving International Conflicts: The Theory and Practice of Mediation*, (Boulder, CO. & London: Rienner, 1996) pp. 75-104.

African example, and reiterate the importance of mediation in enabling parties have 'back channels' where face-to-face meetings are difficult. In this case, the contacts arranged by the third parties between the African National Congress (ANC) and the Government enabled preliminary communication between the parties in conflict before they were ready to negotiate openly<sup>98</sup>.

Zartman<sup>99</sup> candidly points out that the parties to a conflict must be ready for mediation before the process can proceed. The ripe moment occurs when the parties reach a stage in their conflict when the costs of continuing with conflict are higher than the costs of negotiating. But because realization of ripe moments is subjective to the parties, it is not easy for a third party to know precisely when the ripe moment for mediation is. If the mediator enters into a conflict that is not ripe for mediation, he is not likely to succeed.

This section has illustrated that conflicts change in such a way that their management is either rendered more tenable or more difficult. Effective management of the conflicts must take into consideration various factors including the ripe moment. The next section proceeds to discuss mediation.

### **Conflict Management by Third Parties**

Although the parties directly involved in a conflict sometimes settle or resolve their differences without resorting to any external assistance, third party intervention is the most prominent mode of conflict management. Third party intervention is any attempt to manage a

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<sup>98</sup> O.Ramsbotham, et al (eds), *Contemporary Conflict Resolution*, 2<sup>nd</sup> edition (Cambridge: Policy Press,2006),169.

<sup>99</sup> I.W. Zartman, 'The Timing of Peace Initiatives: Hurting Stalemates and Ripe Moments,' op. cit. 85

conflict by an actor not directly involved in the conflict. Entry of a third party into a conflict transforms its structure from the originally dyadic structure into a triadic one.<sup>100</sup>

Scholars agree that mediation is the most dominant mode of third party intervention in the management of conflict. Nonetheless, whereas there is agreement among scholars that mediation is a voluntary process that requires the agreement of parties on the mediation process and on the mediator, there is considerable disagreement as to what constitutes effective mediation. Again, despite it being the most embraced of all the modes of third party intervention – conciliation, negotiation, judicial settlement, arbitration, facilitation, use of “good offices”-, it is the most complex conflict management mechanism. It also suffices to note that the Charter of the United Nations exhorts Member States to settle their disputes through mediation.<sup>101</sup>

Bercovitch maintains that mediation has been and remains one of the most significant devices used in managing, settling and resolving conflict between antagonistic parties. He argues that mediation seems to offer the best practical method of managing conflicts and helping to establish some order in the international system.<sup>102</sup> He sees mediation as the continuation of negotiations by other means, with the involvement of the parties in conflict working towards managing their own conflict. Susskind and Cruickshank conceptualize mediation as ‘assisted negotiation’ involving representation, inventing options and

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<sup>100</sup> J. Bercovitch, ‘International Mediation,’ op. cit.

<sup>101</sup> See Article 33 of the Charter of the United Nations.

<sup>102</sup> J. Bercovitch, ‘The Structure and Diversity of Mediation in International Relations’ in Bercovitch, J & Rubin, Z.J. (eds), *Mediation in International Relations: Multiple Approaches to Conflict Management*, ( London: Macmilan, 1992) pp. 1-29.

monitoring.<sup>103</sup> Stulberg also rightly notes that mediation is a procedure predicated upon the process of negotiations.<sup>104</sup>

Mwagiru<sup>105</sup> supports this view and defines mediation as the continuation of negotiations by other means. In his view, the need for mediation arises when the parties to a conflict have attempted negotiation, but have reached an impasse. In such a situation, the parties agree on a third party to be a mediator and help them negotiate the conflict. Eckhoff sees mediation as constituting of influencing the parties in conflict to come to agreement by appealing to their own interests.<sup>106</sup> Additionally, both Young<sup>107</sup> and Mitchell<sup>108</sup> argue that mediation is an intermediary process undertaken by a third party with the primary intention of achieving some compromise settlement of the issues at stake between the parties, or at least ending disruptive conflict behaviour. All these definitions and conceptualizations have the notion of mediation as the continuation of negotiation by other means.

### **Debates on Single and Multiparty Conflict Management**

Another practice in mediation has to do with single or multiple actors.<sup>109</sup> Single mediation revolves around the engagement of only one actor or mediator in the conflict. The actor may be a state, international organization, regional organization, or non-governmental organization. On the other hand, multiparty mediation refers to attempts by many third

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<sup>103</sup> L. Susskind & J.Cruikshank, *Breaking the Impasse* (New York: Basic Books,1987),Ch.5.

<sup>104</sup> J.B.Stulberg. 'The Theory and practice of Mediation Reply to Professor Susskind' *Vermont Law Review* Vo.6 (1981) pp.85-117.

<sup>105</sup> M. Mwagiru, *Conflict in Africa: Theory, Processes and Institutions of Management*, op. cit., p. 115.

<sup>106</sup> See T.Eckhoff, The Mediator and the Judge, *Acta Sociologica*, Vol.10 (1996) p.158.

<sup>107</sup> O.R.Young, *The intermediaries: Third parties in international crises*, op.cit. p.34.

<sup>108</sup> See C.R. Mitchell, *The Structure of International Conflict* (London: Macmillan,1981),p.27.

<sup>109</sup> C.A.Crocker et al, 'Is More Better? Pros and Cons of Multiparty Mediation' in Crocker,C.A., et al (eds), op.cit.,497-513.

parties to assist peace negotiations in any given conflict. These attempts may occur sequentially, with one mediators getting into the mediation process one after another; or may occur simultaneously over the life of the conflict. When it is simultaneous, it involves many different mediators with various institutional bases on the ground at the same time.<sup>110</sup> Examples where multiparty mediation has been used include Kenya during the PEV with the USA, EU,AU, IGAD and EAC working towards the intervention. Actors in multiparty mediation therefore range from national governments, regional and international organizations, non-governmental organizations as well as individuals.

Crocker et al<sup>111</sup> further observe that multiparty mediation may also refer to a number of attempts at mediation by different actors over the life of the conflict. In the early stages, for example, non-official actors may be the only third party entering the mediation. However, if the conflict escalates to full-scale violence, mediation may be undertaken by an international organization or by a representative of a national government who has the necessary influence and ability to move the parties in conflict towards a negotiated settlement.

Questions often arise with regard to the number of mediators and their potential of success. It should be noted from the outset that single mediation is often faster since there is no time lost in going back and forth for decision-making. However, the mediator may be caught up in a position that he or she has developed and get sucked in the conflict. Mwangiru observes that Moi was psychologically affected by the Ugandan mediation process.<sup>112</sup> Multiparty mediation often leads to disagreement among the mediators due to lack of shared analysis of

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<sup>110</sup> See C.A.Crocker et al,(eds) 'The Pros and Cons of Multiparty mediation', op. cit. Pp.497- 513.

<sup>111</sup> Ibid.

<sup>112</sup> See M.Mwangiru, *The International Management of Internal Conflict in Africa: The Uganda Mediation,1985* (Ph.D. Dissertation), op.cit.

problems and solutions; wastage of resources due to poorly defined mandate as experienced in Somalia; buck-passing and blame game also results as mediators keep ducking emerging issues.

### **Debates on Impartiality in Conflict Management**

Issues of partiality and impartiality have evoked intense debates among scholars and practitioners of international conflict management. The heart of this debate lies in effects of the impartiality on the outcomes of the mediation. Jackson,<sup>113</sup> Young,<sup>114</sup> Northedge and Donelan,<sup>115</sup> among others argue that impartiality is a crucial ingredient if the mediator is to gain confidence among the antagonists. In their view, trust and confidence goes with acceptability. Assefa demonstrates that the impartiality of the WCC provided a fertile ground for the breakthrough in the Sudan conflict that led to the signing of the Addis Ababa Agreement in 1972.<sup>116</sup> It is demonstrated that the impartiality of the WCC and its affiliate AACC led to the success of the mediation.

Whether mediation is official or unofficial, it experiences the problem of impartiality by the mediator and the problem of determining the ripe moment to initialize mediation process. Classical notions that a mediator has to be partial for mediation to be successful have been challenged by contemporary situations where a mediator need not be impartial to deliver a successful outcome. Indeed, Smith<sup>117</sup> argues that mediators make suggestions pertaining to

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<sup>113</sup> R. Jackson, *The Global Covenant: Human Conduct in a World of States*, op.cit

<sup>114</sup> O.R. Young, *The intermediaries: Third parties in international crises*, op.cit.

<sup>115</sup> F.Northedge & M. Donelan. *International dispute: The political aspects*, op.cit

<sup>116</sup> For an excellent exposition of issues regarding the conflict, see H. Assefa, *Mediation in Civil Wars: Approaches and Strategies – The Sudan Conflict* (London: Westview Press, 1987) p.90

<sup>117</sup> J.D. Smith, 'Mediator Impartiality: Banishing the Chimera,' *Journal of Peace Research*, Vol. 31, No. 4

the substance of the conflict, and seek to influence the parties to make concessions by exerting pressures and offering incentives. In such situations, the mediator possesses certain resources that the parties value, and as such, impartiality is superseded by the desire for these resources.

Bercovitch<sup>118</sup> argues that a mediator is engaged in behavior that is designed to elicit information and exercise influence.<sup>119</sup> To exercise any degree of influence, mediators need 'leverage' or resources. Leverage or mediator power enhances the mediator's ability to influence the outcome. This means that mediation is seen as a process involving the exercise of power. The mediator has power to reward, punish, and induce parties to reach an agreement desirable by the mediator.<sup>120</sup> In the mediation between Egypt and Israel in the 1970s for example, the United States was known by Egypt to be close and even biased towards Israel, yet this did not deter Egypt from the mediation process because it needed some resources from USA which could only be delivered as a result of the mediation. Apart from the resources, the US could also ensure that Israel attended the mediation and abided by the agreements reached.<sup>121</sup>

Other scholars argue that a mediator need not be impartial. Touval, Zartman, Bercovitch, Anagnoson, Wille among others argue that mediator acceptability is neither build upon

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(November 1994) pp. 445-450.

<sup>118</sup> J. Bercovitch, *et al*, 'Some Conceptual Issues and Empirical Trends in the Study of Successful Mediation in International Relations,' *Journal of Peace Research*, Vol. 28, No. 1 (February, 1991) pp. 7-17.

<sup>143</sup> Ibid.

<sup>144</sup> M. Mwagiru, *Conflict in Africa: Theory, Processes and Institutions of Management*. op. cit., pp. 116-117.

<sup>145</sup> I.W. Zartman, 'The Timing of Peace Initiatives: Hurting Stalemates and Ripe Moments,' op. cit.

<sup>118</sup> Cited in M.Kleiboer, 'Understanding Success and Failure of International Mediation', *Journal of Conflict Resolution*, Vol.40, No.2 (June 1996) pp.360-89.

impartiality nor trust but in the mediators bias towards one of the parties.<sup>122</sup> However, acceptance and acceptability is not automatic. They advance the view that by the mere fact that a mediator enters a conflict, he or she already has some interests and motives geared towards a certain outcome. The mediator possesses leverage and resources that are direly needed by either or both of the parties and hence comes the influence and partiality. However, scholars argue that too much leverage can also be risky to the mediation process since compensation for concessions may get out of hand thereby creating dependence. In fact, Touval and Zartman argue that too much of a stick can cause parties to withdraw acceptance of a mediator or even refuse to co-operate.<sup>123</sup>

Many times, mediators employ strategies of communication-facilitation, formulation, directive and manipulation with a view to control the parties and have a successful outcome.<sup>124</sup> Directive strategies as propounded by Sheppard, are the most powerful form of intervention where the mediator affects the content and substance of the bargaining process by providing incentives for parties to negotiate or by issuing ultimatums, with an aim of changing the way issues are framed and behaviour associated with them.

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<sup>123</sup> See S.Touval and I.W.Zartman (eds), *International Mediation in Theory and Practice* (Bolder Co.: Westview Press, 1985) pp.7-20.

<sup>124</sup> For a comprehensive discussion of mediation strategies, see S.Touval & I.W.Zartman (eds), *International Mediation in Theory and Practice* (Bolder Co.: Westview Press, 1985) pp.7-20; and I.W.Zartman and S.Touval, 'International Mediation: Conflict Resolution and Power Politics', *Journal of Social Issues*, Vol.1. 41 (1985) pp.27-46; also J.Bercovitch & A.Houston, 'Why Do They Do It Like This? An Analysis of the Factors Influencing Mediation Behavior in International Conflicts', *Journal of Conflict Resolution*, Vol.44 No.2 (April 2000) pp.170-202; B.H. Shepard, 'Third-party conflict intervention: A procedural framework', *Research in Organizational Behaviour*, Vol. 6 (1987) pp.141-190.

## **An Overview of the Chapter**

This Chapter has looked at the debates on conflict management approaches by state and non-state actors. It has discussed in-depth the concepts of conflict transformation and management. It is acknowledged that the dynamics in conflict affects the issues, interests and actors. This in turn leads to the transformation of the structure of the conflict. In the long run, it requires a critical analysis of the conflict management approaches to be used to effectively manage any given conflict. In this regard, mediation or third party mediation has been discussed in the context of both state and non-state actors. It is evident that the conflict management approach used depends on various factors, including the context and nature of the conflict, characteristics of the parties, as well as the process variables. These strategies and variables determine the outcome of the mediation process, whether settlement or resolution.

## CHAPTER THREE

### LAND-BASED CONFLICT: THE MT. ELGON CASE STUDY

#### Introduction

The previous Chapter discussed in detail, the debates on conflict management approaches by state and non-state actors. This particular chapter focuses on the conflict in Mt. Elgon District. It demonstrates that the conflict in Mt. Elgon District is over land as a natural resource. It therefore provides an analytical discussion of land-based conflict, the causes of the conflict.

#### Land-related conflicts

Land is unique, valuable and immovable resource of limited quantity.<sup>1</sup> It is not only the most basic asset of subsistence for many people around the world; land also contains valuable structures and natural resources on or beneath it. It is therefore, a very strategic and valuable socio-economic resource and asset in many societies. Homer-Dixon and Blitt , posit that the effects of environmental scarcity such as “constrained agricultural output, constrained economic production, migration, social segmentation, and disrupted institutions can, either singly or in combination, produce or exacerbate conflict among groups.”<sup>2</sup> Kameri-Mbote observes that conflict over land often combines strong economic, social, political, legal and

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<sup>1</sup> See Mt. Elgon Conflict: A Rapid Assessment of the Underpinning Socio-Economic, Governance and Security Factors”. A report of the UNDP/UNOCHA funded research, 2009; UNDP: Human Development Report, 2006.

<sup>2</sup> Ibid., p.8.

environmental values.<sup>3</sup> When symbolically or emotionally important land or property on land is at issue, chances of conflict and violence increase significantly.

Peet and Watts,<sup>4</sup> together with Mathew<sup>5</sup> support Kameri-Mbote's position that the use of natural resources is susceptible to conflict for a number of reasons. Natural resources are embedded in an environment or interconnected space where actions by one individual or group may generate effects far off-site. Secondly, natural resources are also embedded in a shared social space where complex and unequal relations are established among a wide range of social actors, including agriculturalists, pastoralists, ethnic minorities, government agencies and many others. As in other fields with political dimensions, those actors with the greatest access to power are also able to control and influence natural resource decisions in their favour.<sup>6</sup>

Kameri-Mbote et al<sup>7</sup> argue that four situations give rise to conflict over natural resources. In their view, natural resources are shared resources. They are found in settings that are shared and interconnected. Action by one group on the resources necessarily affects the other groups. This can be illustrated by the raging debate over the exploitation of the Mau forest in Kenya that has been alleged to contribute to climate change and global warming. Secondly, since natural resources are shared, they involve heterogeneous actors with diverse interests.

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<sup>3</sup> P.Kameri-Mbote, J.Musaasizi & M.Waithaka,op.cit.p.5-6.

<sup>4</sup> R. Peet & M. Watts., *Liberation ecologies: environment, development and social movements*. (London: Routledge, 1998). Available at <http://www.idrc.ca/>. Accessed on 30/09/2009.

<sup>5</sup> R. Mathew, 'The environment as a national security issue', *Journal of Policy History*, Vol.12, No.1 (2000) pp.101-122.

<sup>6</sup> P.Kameri-Mbote, et al. op.cit., p.5

<sup>7</sup> Ibid; see also the analysis of Thomas Homer-Dixon in support of this point, in T. F. Homer-Dixon & J. Blitt., *Ecoviolence: links among environment, population, and security*.( USA: Rowman and Littlefield, 1998),pp 1-17; also see T.F. Homer-Dixon & G.Bachler, 'Why environmental transformation causes violence', *Environmental Change and Security Project Report,4* (1998) pp.24-44.

needs, and influence on the ecosystem that in turn lead to conflicts. Thirdly, due to over-exploitation and environmental rapid changes, natural resources are increasingly becoming scarce that exacerbates their demand and unequal distribution. Fourth, people use natural resources in different ways thereby leading to deterioration, tension and instability of societies. Homer-Dixon also subscribes to these views.<sup>8</sup>

It can therefore be argued that conflict over natural resources such as land, water, and forests is ubiquitous. People everywhere have competed for the natural resources they need or want to ensure or enhance their livelihoods. However, the dimensions, level, and intensity of conflict vary greatly. Conflicts over natural resources may have class dimensions, pitting those who own the resource against those who own relatively little or nothing but whose work makes the resource productive

### **The Mt. Elgon Conflict**

Mt. Elgon is one of the 28 Districts in Western Province in Kenya. The District borders the Republic of Uganda to the north and west; Trans Nzoia Districts to the East; and Bungoma Districts to the South.<sup>9</sup> It has a population of 166,088<sup>10</sup>, 56% of whom live in abject poverty<sup>11</sup>. The District was carved out of the greater Bungoma District in 1993 and it covers an area of 936.75sq. km with Mt. Elgon forest occupying 609.6sq.km (49,382.9 ha). The decision to carve out Mt.Elgon District was interpreted as a reward to the Sabaot for their

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<sup>8</sup> T.Homer-Dixon & J. Blitt, *Ecoviolence: links among environment, population and security* (Lanham: Rowman & Littlefield,1998).

<sup>9</sup> The greater Trans Nzoia and Bungoma Districts have since been split into Trans Nzoia West, Trans Nzoia East, Kwanza, Bungoma North, Bungoma South, Bungoma East, Bungoma West, Bungoma Central and Bumula Districts.

<sup>10</sup> Central Bureau of Statistics. Report of the Kenya National Population and Housing Census, 1999.

<sup>11</sup> Government of Kenya. Ministry of Finance and Planning, 2002

overwhelming support to the then Kenya National African Union (KANU) in the first multi-party elections held in 1992.

Administratively, the District is divided into 4 Divisions namely Kapsokwony, Kaptama, Kopsiro and Cheptais. Kapsokwony is the District Headquarters while Cheptais forms its economic hub. These Divisions are further sub-divided into 16 locations and 40 sub-locations. The District boundaries also correlate with the Mt. Elgon Constituency boundaries. The Constituency-cum District has one County Council with 16 civic wards.

Mt. Elgon forest was gazetted as a government forest reserve in 1932. The population density is high and multi-ethnic. Most of the inhabitants have migrated from far away places thereby influencing the local communities' lifestyles who were primarily livestock herders to be agriculturalists. The fertile, well-watered Chebyuk area was until 2006 home of a population of about 35,000 over a 10sq. km surface area.<sup>12</sup> Following primary forest clearance which had begun in the 1970s, land cultivation intensified. Change in lifestyle has resulted in encroachment of the forest for cultivation and exploitation of forest products. The forest has been subjected to over-exploitation of high value tree species such as Elgon teak (*oloea welwitschii*) especially in the natural forest.

The District's development is constrained by poorly developed infrastructural facilities, under-exploited local resources and raw materials, poor marketing networks, inaccessible credit facilities all compounded by environmental degradation.<sup>13</sup> 80% of the population is

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<sup>12</sup> Ibid

<sup>13</sup> Government of Kenya. Ministry of Finance and Planning, 2002

basically engaged in agriculture owing to the region's serene relief that accords it good agricultural potential with fertile soils and reliable rainfall throughout the year.

### Sources of the Mt. Elgon Conflict

Studies conducted by ACTS,<sup>14</sup> UNDP/UNOCHA<sup>15</sup>, Simiyu<sup>16</sup> with regard to the conflict in Mt. Elgon, have attempted to analyze the causes of the conflicts. These studies reveal that the conflict in Mt. Elgon has many dimensions with various correlated causes and outcomes. They point to land issues occupying a central role in generating, fuelling and sustaining the conflict.<sup>17</sup> Other socio-economic causes however, also underlie the conflict.

Generally, the conflict can be traced to colonial land policy that created a situation of alienation. The policy provided for the settlement of European farmers in the White Highlands, in the now greater Trans Nzoia. This settlement programmes led to displacement of certain sections of Africans, the Ndorobo/Mosop who ended up in Chepkitale trust land on the upper slopes of Mt. Elgon while the Soy settled on the lower sides of the slopes. In the light of these, the Organization for Economic Co-operation and Development (OECD) notes that dispossession of land is a common cause of population displacement. It also identifies localized and regional scarcity of land and changes in land tenure systems as contributing factors to violent conflict over resources.<sup>18</sup>

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<sup>14</sup> ACTS 2008, op.cit;

<sup>15</sup> UNDP/UNOCHA Report, op.cit.

<sup>16</sup> R. Simiyu., *Militarization of resource conflicts: The case of land-based conflicts in the Mount Elgon region of Western Kenya*. (Pretoria: Institute for Security Studies, 2008);

<sup>17</sup> Ibid. Again, this view is based on this researcher's interview with a former Provincial Commissioner for Western Province, Kenya held on 06/07/2009; and also an interview with a former District Commissioner for Mt. Elgon District held on 30/09/2009.

<sup>18</sup> See N.Pons-Vignon & H.S. Lecomote, 'Land, violent conflict and development', *OECD Working Paper* No. 233,(2003).

## Inequitable Land Distribution and Access

Inequitable distribution of and access to land has also been cited as one of the causes of conflict in Mt. Elgon District. The entire resettlement process in Chebyuk was characterized by lack of transparency, fairness and equity. It was marred with inequalities along clans and social classes. In particular, the intended allottees in Phase 1 were Ndorobos from Chepkitale.<sup>19</sup> The land allocation process was marred by malpractices including corruption among the land allocation committees, uncoordinated adjudication and allocation processes. Needless to mention was politicization of the entire allocation process. Each phase therefore had grievances that seem not to have spilled over.

All these are pointers to the fact that conflicts are made complex by the interaction of myriads of actors. As astutely argued by Mwagiru<sup>20</sup>, Vayrynen<sup>21</sup> and others, the involvement of different actors in any given conflict facilitates its significant transformation. They both argue that the involvement of different actors brings on board diverse and conflictual interests, needs and perceptions. This also reiterates the view that even those who may enter a conflict with an objective to mediate may not necessarily be impartial demonstrated by the land adjudication committees, government and other actors. They more often than not, are driven by certain motives rather than altruism. This negates the arguments by Jackson,<sup>22</sup> Young,<sup>23</sup> Northedge and Donelan,<sup>24</sup> among others who argue that impartiality is a crucial

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<sup>19</sup> This view is based on the researcher's interview with an official of a Non-Governmental Organization that operates in Mt. Elgon District held on 30/09/2009.

<sup>20</sup> M. Mwagiru, op.cit.

<sup>21</sup> See Vayrynen, 'To Settle or to Transform? Perspectives on the Resolution of National and International Conflicts' op. cit.

<sup>22</sup> R. Jackson, *The Global Covenant: Human Conduct in a World of States*, op.cit

<sup>23</sup> O.R. Young, *The intermediaries: Third parties in international crises*, op.cit.

<sup>24</sup> F.Northedge &M. Donelan. *International dispute: The political aspects*, op.cit

ingredient if the mediator is to gain confidence among the antagonists. In their view, trust and confidence goes with acceptability.

However, as demonstrated by most of the actors in the Mt. Elgon conflict, the interventions by the actors has seen more of partiality than impartiality. This tends to support the arguments by Touval, Zartman, Bercovitch, Anagnoson, Wille among others, who assert that the mere fact that a mediator enters a conflict, he or she already has some interests and motives geared towards a certain outcome.<sup>25</sup>

### **Discriminatory or Unclear Tenure Policies**

Land tenure refers to rights of access and use of land. Violation of insufficiently protected land tenure rights can lead to conflict and violence. Many countries have tenure systems for land and resources that either reflect historical inequities in wealth and political power or have been recently modified to encourage large-scale industrial agriculture and capital investment. People with insecure tenure rights are often indiscriminately or forcibly removed from their land. In many countries, rural dwellers with weak tenure are pushed off their lands without fair compensation or due process. Tenure insecurity also arises in post-conflict situations where people have competing claims to the same parcel of land

The process of degazetting the Mt. Elgon forest, surveying the boundaries, adjudicating and allocating of the land by Government had major loopholes in granting land security through issuance of title deeds. In particular, there was dishonesty in allocations as genuine and well-

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<sup>25</sup> For more details on impartiality and partiality in conflict management, see Chapter 2., pp.76-78.

deserving allottees were left out in the allocations. This was also coupled with multiple allocations.<sup>26</sup> This clearly demonstrates the greed/grievance theories that provide an analysis of the nexus between the drive for economic gains and conflict as advanced by Paul Collier<sup>27</sup>, Kofi Annan<sup>28</sup> among others. As Kameri-Mbote argues, economic conditions associated with natural resource conflicts include the economic status of the parties in conflict, the value associated with its products and services.<sup>29</sup> However, this discussion also opens up to other causal factors such as governance and politics.

Further, failure to set out clear boundaries between the settlement schemes and the forest led to encroachment on forest land. In addition to this, some families engaged in land transactions for parcels of land that had no title deeds. In effect, it meant that there were no legal transfers of title deeds from one person to the other thereby exacerbating disputes as to the ownership of the parcels of land. It is also observed that the failure by the Government to complete the settlement process through issuance of Title Deeds has continued to fuel the conflict. These factors combined to deprive families of land and denying them opportunities for long-term development.

Conflicting land-tenure and land-use systems further complicated by overlapping systems that for example, provide for traditional areas for social groups linked to their identity and governed by traditional laws; Kenya's Constitution and policies that provide land for national heritage; and provisions that set aside land for public utility.

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<sup>26</sup> This view was expressed by a retired Government-based Land Surveyor during an interview held on 29/09/2009.

<sup>27</sup> P. Collier, op.cit., Also M.Berdel & D.Malone (eds) *Greed and grievance: Economic agendas in civil war* (IPA, 2000).

<sup>28</sup> K. Annan, op.cit.p.5

<sup>29</sup> See P. Kameri-Mbote et al, op.cit.

However, the sources of grievances among people and groups that underpin disputes tend to result from achieving or retaining control over scarce or diminishing resources. Some scholars such as Fisher<sup>30</sup> argue that many of the sources of grievances though common to many societies do not necessarily shift into a conflictual situation or into hostilities. In fact, most land tenure systems tend to be resilient to change and can absorb turbulence, but only to a limited extent. Beyond certain thresholds, they can begin to crumble. According to a report by the Food and Agricultural Organization (FAO), "serious land conflicts tend to be generated by an accumulation of different sources of tension which result in the erosion or abandonment of previously accepted socially recognized rules of access to land and use of land and other natural resources."<sup>31</sup>

### **Population Displacement and Migration**

Homer-Dixon<sup>32</sup>, Bachler<sup>33</sup> among other scholars, reveal that environmental factors play a significant role in causing conflict. They note that environment causes of major significance are natural-resource linked and are due to population pressure, decline of agriculture per family land-holding, soil degradation and shortage of firewood. While the politics of ethnic violence in Mt. Elgon District have been amplified and analyzed, what remains less understood is how the environmental scarcities interacted with social, economic and political factors to heighten the explosiveness of tension in the period preceding the violence experienced in the District. Available data show that strong grievances linked to

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<sup>30</sup> See L. Fisher 'Seeking Common Cause in the Controls: opportunities and challenges in resolving environmental conflicts' in *The Common Property Digest*, (October 1996) pp.3-5.

<sup>31</sup> FAO, *Land tenure, natural resource management and sustainable livelihoods. A Report of World Food Programme*. (Rome: Land Tenure Service, FAO, 2002).

<sup>32</sup> T.F. Homer-Dixon, *op.cit.*

<sup>33</sup> G. Bachler. *Violence through environmental discrimination*. (London: Kluwer Academic Publishers, 1999)p.113-166.

environmental scarcities existed prior to the outbreak of the violence.<sup>34</sup> Although this was a reality, no one could have predicted a catastrophe of the magnitude experienced between 2006 and 2007.

Population movements either through normal migration or forced displacement often leads to conflicts as those on the move come into contact with other groups elsewhere. A frequent result of major development projects supported explicitly by government policy is the displacement of resident populations. In many countries, there are also policies supporting or even forcing migration and resettlement away from more populous regions to the agricultural frontiers. Whether voluntary or involuntary, policies aimed at resettlement can lead to deprivation and conflict, even when they are planned and supported financially by government or other project sponsors.

In many cases, the migrants have a different cultural background from that of the local residents. They share no common tradition or recognition of resource values and taboos. They do not share a common social framework to identify resource rights and processes. They are not party to established mechanisms for arbitration, benefit-sharing, and managing common property. They are also highly stressed — typically with little knowledge of the local resource base and limited reserves of food or cash. They are forced to be opportunistic in their use of resources, a situation that can degenerate into open access. This situation calls for the external imposition of rules and order. Yet, successive regimes in Kenya typically underestimate the impact and disruptions caused by resettlement and fail to recognize the

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<sup>34</sup> CBS. *Results of the Kenya National Population and Housing Census, 1999* (Nairobi: Government Printer, 1999)

conflicts that arise.<sup>35</sup> The Districts' settlement patterns show that 69% of the district is covered by forest while only 31% is occupied by human settlements. Most of the human settlements are mainly concentrated in urban centres such as Cheptais, Kapsokwony, Kaptama and Kopsiro. The rising population growth has in-turn led to encroachment on the forest resources.<sup>36</sup>

This analysis shows the need to pay great attention to the role of environmental factors in conflict management. It demonstrates how social effects of natural resource scarcity contribute to violence. First large populations were adversely affected by scarcity, and were dissatisfied with the State. Second, the government did not consider seriously the significance of this dissatisfaction and there was no serious attempt to address it. Third, the emerging opposition leaders challenged the regime by organizing the dissatisfied and unemployed populations into armed militias, the youth in particular, and playing upon ethnic mistrust.<sup>37</sup>

### **Competing Land Claims and Uses**

It is generally held that conflicts arise from parties who are perceived to be in pursuit of incompatible goals and objectives. Dougherty and Pfaltzgraff posit that a conflict situation exists one in which one identifiable group of human beings is in conscious opposition to one

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<sup>35</sup> See ACTS, op.cit.

<sup>36</sup> Ministry of Finance and Planning. *Mt. Elgon District Development Plan 2002-2008 (Nairobi: Government Printer, 2002)*.

<sup>37</sup> This third view was expressed by Mr. Zadock Ndiwa, a local opinion leader during an interview with the researcher on 15/09/2009.

or more other identifiable group or groups because these groups are pursuing what are or appear to be incompatible. Zartman<sup>38</sup> argues that implicit meaning of conflict is the incompatibility that is inherent in situations with multiple issues and multiple actors. Mwangi<sup>39</sup> and Reuck<sup>40</sup> add that a conflict arises when two or more parties have incompatibilities about something. Reuck proceeds to say that a conflict situation is usually said to arise between parties who perceive that they possess and are in pursuit of mutually incompatible objectives.<sup>41</sup> These definitions of conflict have been demonstrated in the Mt. Elgon conflict in a number of ways.

Government land appropriation and resettlement schemes are a notorious feature in Kenya. This often causes conflicts and tension related to competition for land uses and claims. The system of settlement schemes and trustees was introduced in Kenya in the 1970s. Even though this was a good idea that was meant to assist the landless people get land, the system was riddled with corruption and mismanagement resulting in "settling" those politically correct. In turn, this led to the general squatter problem in Kenya. Thereafter, land-buying companies and cooperatives were introduced to pool resources for land acquisition. These were again infiltrated and used by politicians as a means of swindling land hungry peasants of a resource they direly needed. To exacerbate the situation, most of the land-buying companies and co-operatives were ethnic based contrary to the constitutional and company law provisions against this form of discrimination.<sup>42</sup> Critics also argue that these institutions

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<sup>38</sup> I.W. Zartman, 'Conflict Resolution: Prevention, Management and Resolution in Africa' in Deng, F.M. and Zartman, I.W. (eds), *Conflict Resolution in Africa* (eds), (Washington, DC.: Brookings Institution, 1991).

<sup>39</sup> M. Mwangi, *Conflict in Africa. Theory, Processes and Institutions of Management* (Nairobi: CCR Publications, 2006) p.3.

<sup>40</sup> A. de Reuck, 'The Logic of Conflict: Its Origin, Development and Resolution', in M. Banks (ed) *Conflict in World Society: A New Perspective on International Relations* (Sussex: Harvester, 1984) p.96-111.

<sup>41</sup> Ibid.

<sup>42</sup> See *The Constitution of Kenya, 1963.*; also see *The Companies Act Cap.486, Section 128.*

were funded by their cronies who manned influential positions in financial institutions who could extend loans to them to enable them amass large chunks of land. This again blends in well with the greed/grievances theory as advanced by. It also ties in with Paul Collier's economic causes of conflict.<sup>43</sup>

With regard to the conflict in Mt. Elgon, it is evident that competition between land uses is an important factor as new conservation areas are demarcated or corporate access to other natural resources is privileged by the government over local community interests. Problems related to land tenure systems in Mt. Elgon that have exacerbated the conflict include insecurity of tenure, land subdivision, and informal land markets; land alienation and concentration, combined with externally determined land use changes; and undemocratic systems of local government to adjudicate and administer land disputes.<sup>44</sup>

### **Land Scarcity and Insufficiency**

Homer-Dixon posits that natural resources are subject to increasing scarcity due to rapid environmental change, increasing demand, and their unequal distribution.<sup>45</sup> He advances the view that environmental change may involve land and water degradation, over-exploitation of wildlife and aquatic resources, extensive land clearing or drainage, or climate change. Increasing demands have multiple social and economic dimensions, including population growth, changing consumption patterns, trade liberalization, rural enterprise development, and changes in technology and land use.

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<sup>43</sup> P. Collier, op.cit.

<sup>44</sup> ACTS, op.cit p.7

People have fought over land since the beginning of history. Population growth and environmental stress have exacerbated the perception of land as a diminishing resource. Land is often a significant factor in widespread violence and also a critical element in peacebuilding and economic reconstruction in post-conflict situations. The conflict in Mt. Elgon can also be looked at from the perspective of land shortage and scarcity as propounded by the greed/grievance theories by Homer-Dixon.<sup>46</sup> Since 80% of the population in the District depends on agriculture.<sup>47</sup> Land as an economic resource is fundamental to livelihood. The high population growth rate of about 2.3%<sup>48</sup> in the District coupled with limited available land to sustain the households has resulted in competition for land among the various communities.

However, Simiyu<sup>49</sup> observes that there were no reported conflicts between Soy and Ndorobos during the allocation of Chebyuk I since there was enough land for everyone. According to this study, the relations between the Soy and Ndorobos remained cordial until when the Sabots began owning land in the settlement scheme through purchases. Similarly, the resettlement of Ndorobos from Chepkitale Trust Land led to competition over land resulting in the drastic reduction of available grazing land and limited forest resources. Nonetheless, as new groups kept on moving towards Mt. Elgon, the issue of land scarcity arose thereby putting a strain on the locally available land.

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<sup>44</sup>T.Homer-Dixon,op.cit.; see also T.F. Homer-Dixon, 'Environmental scarcities and violent conflict: evidence from cases.' *International Security*, Vol. 19, No.1 (1994) pp.5-40.

<sup>45</sup> Ibid.

<sup>47</sup> Ministry of Planning and National Development. Mount Elgon District Development Plan, 2002-2008 (Nairobi: Government Printer, 2002).

<sup>47</sup> Ibid.

<sup>49</sup> R. Simiyu, op.cit.

It can be observed that as the generations grew older with children maturing into adults and serving as a push factor, the strain over land resources increased over time. Hence, there was increase in population without a proportionate increase or expansion in acreage of land. The youth reacted to this by falling prey to crime as orchestrated by the Sabao Land Defence Force (SLDF) and Moorland Defence Force (MLDF)<sup>50</sup> some of whose ideals were to reclaim communal land. Indeed, land is often significant as a means of production, a means by which families, individuals and groups maintain social status.<sup>51</sup> In many instances, it is also a source of feelings of ancestral 'belonging' as ancestors are buried within traditional territories. Therefore, land is by definition, an emotional issue linked to cultural and other values.

It therefore follows that strategies to address the land problem in the District would need to integrate sensitization and capacity building programmes on modern land use and management systems, modern farming methods and diversification livelihoods. Similarly elements of sustainable environmental management will need to be infused with a view to curb deforestation.

### **Weak Institutions of Governance**

Institutions of governance have played a big role in generating and sustaining the Mt. Elgon conflict.<sup>52</sup> Institutions are defined as structures and mechanisms of social order and cooperation governing the behaviour of a set of individuals or groups. They constrain and regulate behaviour. Institutions may be formal such as Constitutions, rules and guidelines.

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<sup>50</sup> On an incisive revelation about the MLDF, see Isaiah Lucheli, 'Moorland Defence Force Presents another headache for Government', *The Sunday Standard* June 1, 2008. p.33.

<sup>51</sup> See UNDP/UNOCHA Report, op.cit.

<sup>52</sup> UNDP/UNOCHA Report, op.cit.

They may also be informal such as community norms. They are of various categories including social, economic, political, legal, cultural and religious. These institutions are mandated with governance.

Governance simply refers to the process of decision-making and the process by which decisions are implemented or not implemented.<sup>53</sup> Since governance is the process of decision-making and the process by which decisions are implemented, an analysis of governance focuses on the formal and informal actors involved in decision-making and implementing the decisions made and the formal and informal structures that have been set in place to arrive at and implement the decision.

Government is one of the actors in governance. Other actors involved in governance vary depending on the level of government that is under discussion. In rural areas, for example, other actors may include influential land lords, associations of peasant farmers, cooperatives, NGOs, research institutes, religious leaders, finance institutions political parties, the military and so on.

According to the UN, good governance has eight major characteristics. It is participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law.<sup>54</sup> It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It is also responsive to the present and future needs of society. The

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<sup>53</sup> See UN. *United Nations Guide Book on Promoting Good Governance in Public-Private Partnership* ( New York; Geneva , 2008).

<sup>54</sup> Ibid.

reverse of these boils down to bad governance. Governance has continued to play a major part in the conflicts experienced in Mt. Elgon as discussed herein.

Kameri-Mbote argues that weak legal, institutional and traditional/customary protections feed heavily into the gender dimension of the land-and-conflict picture. She asserts that conflict over land, particularly involving land access and rights, disproportionately and negatively impacts women.<sup>55</sup> In conflict and post-conflict situations many men have either been killed or gone missing, causing a sharp rise in the number of women-headed households. Women who do not have formal rights to land and property are left without the means to create stable and sustainable livelihoods. This situation contributes to poverty and perpetuates a cycle of social and political inequality that provides fodder for future conflict. By implication, women and youth have not been adequately involved in conflict management related to land yet they have a potential to contribute to land conflict management systems.<sup>56</sup> Indeed, they have a good understanding of the issues at stake and may be helpful in resolving them.

Studies conducted by ACTS, Simiyu, UNDP/UNOCHA point to the fact that bad governance manifested through structural violence has played a big role in sustaining the conflict in Mt. Elgon District.<sup>57</sup> Indeed, as Mwagiru argues, if structural issues are not dealt with in good time, it reaches a time when life in the structure becomes unbearable thereby leading to

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<sup>55</sup> See O.Kameri-Mbote, 'Women, land rights and the environment: the Kenyan experience' *Development*, Vol. 49, No.3 (2006) pp.43-48. Also see M. Mwagiru & N.Karuru. *Women's Land and Property Rights in Conflict Situations* (Nairobi: CCR-WLEA Publications, 1998).

<sup>56</sup> See M.Mwagiru, M.Munene, N.Karuru, *op.cit.*

<sup>57</sup> See ACTS, *op.cit.*; R. Simiyu., *op.cit.*, UNDP/UNOCHA Report, *op.cit.*

physical violence.<sup>58</sup> Similarly, Mudida<sup>59</sup> asserts that conflicts in society are embedded in the anomalous structures.

From the very outset, the question of land, which is at the heart of the conflict in Mt. Elgon, was handled irresponsibly or more still, indiscreetly by those who were mandated with leadership positions in the District. Under the Carter Commission of 1932, the colonial government moved people from their land in Trans Nzoia without due regard to how and where they would settle. The colonial administration through the 1932 Land Carter Commission recommended 2,000 Sterling Pounds as compensation for the displaced, this recommendation was never implemented<sup>60</sup>. Similarly, the Chepkitale Native Reserve was renamed Chepkitale Trust Land. The latter was converted to Chepkitale Game Reserve in June 2000 thereby denying the locals the rights to access it. Government forced evacuations of communities from forestland and other gazetted government lands have therefore, generated conflicts between the affected communities and the government.<sup>61</sup> Communities often claim indigenous rights to the land or land ownership based on legal title acquired from persons who benefited from irregular or unfair allocations.

The Kenyatta Administration attempted to address the land question among the Mosop between 1965 and 1971 without success. It initiated the Chebyuk Settlement Scheme which was to be excised from the forest. This Scheme was to target Ndorobos/Mosop families from

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<sup>58</sup> M.Mwagiru, *Theory, Processes and Institutions of Management* (Nairobi: CCR,2006) p.25,

<sup>59</sup> R.Mudida, 'The Security-Development Nexus: A Structural Violence and Human Needs Perspective' in K.Brockmann,H.B.Hauck and S.Reigeluth (Eds) *From Conflict to Regional Stability: Linking Security and Development* (Berlin:DGAP,2008) pp.11-22.

<sup>50</sup> See *Kenya Land Alliance Newsletter*, May 2007

<sup>61</sup> See Civil Society Conflict Prevention Network. 'Ways of Managing Scarce Natural Resources in Africa. Report of the Conference on Co-operation or Conflict?', 18-23 June 1999, Maputo.

Chepkitale. It has also been observed over the years that subsequent sales and changes of ownership of land between individual members of the two communities, coupled with periodic, selective, partisan and politically motivated additional settlement of squatters from the two communities by the Government at different times have heightened bad blood between them.

Similarly, successive regimes under Moi and Kibaki have also failed to address the land problem. Some of the administrators in Government and local elites have instead taken advantage of the situation to be direct beneficiaries of the settlement schemes.<sup>62</sup> All these interventions have only served to exacerbate structural violence. Galtung argues that conflict is embedded in the structures of the society. In his view, therefore, the notion of structural conflict cannot be ignored since it has influenced the study of conflict and the conflict management process.<sup>63</sup> John Burton is against the suppression of conflict since this may render the society static. In his view, conflicts should be accepted as a reality than be feared, avoided or even wished away.<sup>64</sup>

It is evident that bad governance has largely contributed to the conflict in Mt. Elgon. Community participation, a key cornerstone of good governance has been lacking. Further, the legal frameworks in place have been unfair and partial in enforcement thereby resulting in fatal land disputes. With regard to transparency, most of the decisions taken by the Government have been made based on limited information. Similarly, the institutions in

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<sup>62</sup> This assertion is based on the interview the researcher held with one of the local opinion leaders from Mt. Elgon District on 15/09/2009.

<sup>63</sup> J. Galtung, 'Violence, peace and peace research' *Journal of Peace Research*, Vol.6, No.6 (1969) pp.167-191; also J. Galtung, 'Cultural Violence' *Journal of Peace Research*, Vol. 27 (1999) pp.291-305; see also K. Webb, 'Structural Violence and the Definition of Conflict' in *World Encyclopedia of Peace* Vol.2 (Oxford: Pergamon Press, 1886) pp.431-434.

<sup>64</sup> J.W. Burton, *World Society* (Cambridge: Cambridge University Press, 1972) pp.137-138.

place to address grievances arising from land disputes have been weak thereby militating against ensuring that all members of the community have a stake in decision-making processes. Most of them have felt excluded from the mainstream of society which resulted in organized crime as a resistance tactic.

Since there has been lack of accountability on the part of most decision-makers in the District, issues of effectiveness and efficiency have not been well-addressed. It therefore, follows that the design, operation and management of institutions is crucial to resolving resource conflicts. It however, should be noted that informal institutions, which remain subordinate to the formal institutions, are much more efficient in resolving resource-based conflicts.<sup>65</sup>

## Poverty

Poverty is a complex and multidimensional concept that has economic, social, political, environmental, and other facets. Poverty is not only a question of low or no incomes, although it is often expressed in these absolute terms, such as the World Bank's definition of poverty being survival on \$US1 a day or less.<sup>66</sup> However, poverty can also be relative and relate to a lack of access to education, health, and other essential services, or because of the basic needs dimension.<sup>67</sup> It could be a lack of self-respect and dignity that poor people experience, or simply the social exclusion dimension. Or it could be a risk or likelihood of

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<sup>65</sup> SID. 'Towards a Common Agenda: Resource Conflicts in East and Southern Africa – Politics, Policy and Law'. Conference Report and Outcomes, 1<sup>st</sup> SID Conference on Resource Based Conflicts in Eastern & Southern Africa, Nairobi, May 24-27, 2004.

<sup>66</sup> See World Bank. *World Development Report, 2004*. (Geneva: World Bank, 2006)

<sup>67</sup> See J. W. Burton, *Conflict: Human Needs Theory* (London: Macmillan, 1990).

falling into poverty and insecurity and a relative exposure to sudden shocks, such as droughts or floods.

Gurr<sup>68</sup> points out that relative deprivation, which often leads to poverty, is a cause of conflict. He argues that relative deprivation is most likely to lead to political rebellion when people feel that they are receiving less than what they are due for. It is demonstrated that rebellion and violence is likely to occur when situations and conditions show some slight improvement. With regard to the Mt. Elgon conflict, it can be argued that the second phase of the multiparty era in Kenya, commonly referred to as the second liberation, has been one of enlightenment. In this era, unlike before, communities could hardly agitate for their rights. But with the beginning of improvement after a long period of deprivation, there is often hope that triggers a revolution or rebellion aimed at filling the 'aspiration gap'.

Bujra, for example, succinctly points out that most Africa conflicts have their sources in poverty.<sup>69</sup> In this regard, therefore, the impact of poverty in Mt. Elgon District is felt in all the four administrative Divisions namely Cheptais, Kopsiro, Kaptama and Kapsokwony.<sup>70</sup>

The main causes of poverty include poor marketing networks, illiteracy, landlessness, poor natural resource use patterns, inadequate health facilities, insecurity, poor farming practices, and underdeveloped micro-enterprises<sup>71</sup> to mention but a few. With 77% of the District population being the youth, it implies that incidences of poverty are high with high rates of unemployment

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<sup>68</sup> T.R. Gurr. *Why Men Rebel* (Princeton: Princeton University Press, 1970).

<sup>69</sup> See. A.Bujra, *African Conflicts: Their Causes and Their Political and Social Environment*, DPMF Occasional Paper No. 4, 2002.(Addis Ababa: DPMF)

<sup>70</sup> Ministry of Planning and National Development. *Mount Elgon District Development Plan 2002-2008*.

<sup>71</sup> Ibid.

Poor infrastructure is evident in the District that is served by about 280km of classified roads. The rugged geographical terrain implies that most roads are poorly done and maintained making most parts of the District impassable. Hence, this becomes an impediment to rapid response to conflicts. Again, marketing of produce is hampered by such infrastructure, exacerbated by middlemen who exploit farmers.

### **The Role of Politics**

Homer-Dixon<sup>72</sup> has provided a linkage between politics and natural resource management. He argues that political context includes the political structure of government institutions and decision-making process, information on political boundaries and the dynamics between and within Committees, Departments and Ministries. Thus decisions made within political contexts influences rules and regulations through which natural resource management processes are institutionalized.

The conflict in Mt. Elgon has to a great extent involved influential politicians from within the District. Political leaders during the Kenyatta, Moi and Kibaki regimes served to exploit their very own communities and used the land question to exploit communities for votes. A study by the National Council of Churches in Kenya (NCKK) reveals that the 1990s saw an advent of pluralist politics rupture the relative stability of Mt. Elgon District as identity politics redefined inter-ethnic relations. The Bukusu were mainly pro-opposition while the Sabaots were keen to maintain the status quo in supporting the ruling party KANU. During this period, ethnic rivalries came to the fore as the Soy-Ndorobo, Sabaot-Bukusu clashes broke

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<sup>72</sup> T.F.Homer-Dixon, 'Thresholds of turmoil: environmental scarcities and violent conflict' in Deudney,D.H & Mathew,R.A (eds) *Contested grounds: security and conflict in the new environmental politics* ( Albany: State University of New York Press, 1999).

out in Mt. Elgon thereby causing massive displacements.<sup>73</sup> It is acknowledged that rivalry between the Soy and Ndorobo communities were also heightened during the 1992 clashes. The clashes witnessed in 2006 and 2008 between the two communities were triggered off by the approval of a list of about 1,732 squatters to be re-settled in Chebyuk Phase III.<sup>74</sup>

Towards the end of 2006, clashes between the Sabaot and Ndorobos, a new ethnic identity that had gradually emerged from among those of the Sabaot group who had been cast aside, resulted in the displacement of 60,000 people and the death of 200 others.<sup>75</sup> The region's inhabitants assimilated with the Ndorobos then took refuge on the high moorland expanses of Chepkitale and in the forest reserve area at the boundary of Trans Nzoia. Others, assimilated with the Soy, moved over to the plains around Cheptais, Kapsokwony and into Trans Nzoia as well. The rivalries have over the years been growing with the 2007 one being severe as it was fuelled by illicit small arms and light weapons.

As Ake correctly illustrates, the over-politicization of social life gravely weakens the state.<sup>76</sup> It can rightly be argued that the political process has been breeding structural violence over the years during the life of the conflict. It is simply skewed towards a particular ethnic group, who dominate the decision-making process. Every ethnic community in Mt. Elgon District has been looking up to the regimes for favours in the resource allocation process. In the long run, this has created competition, rivalry and hence conflict.

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<sup>73</sup> NCKK. *Tackling Discord in Kenya: An Analysis of Recurrent Conflicts in Molo and Mt. Elgon Districts*, Nairobi; NCKK, 2008) (Unpublished) Chapter 3

<sup>74</sup> PeaceNet Kenya. *Mt. Elgon Conflict Study*. (Unpublished, 2008) p. 12; see also *Daily Nation*, Monday August 13, 2007.

<sup>75</sup> *Ibid.*, p.2.

<sup>76</sup> C.Ake, 'Why is Africa Not Developing?', *West Africa*, No.3538 (June 17,1985) p.1213.

## Social Exclusion and Identity

The conflict in Mt. Elgon is further accentuated by social exclusion based on identity. The issues of inequality and inequity have highlighted how some groups have been denied access to economic resources and thus continuing to exclude them from economic activity and further impoverishing them. Unfortunately, such unresolved grievances become the rallying points for the election campaigns.

In Mt. Elgon, land conflicts are not isolated, but are linked to systemic disputes and tensions. Land conflicts are therefore best conceptualized as “nested” within the larger conflicts or tensions. In particular, the issue of land disputes in Mt. Elgon, is linked to intra-community tensions and unpopular gazetting of the forest, which are in turn nested within other conflicts. These include the Sabaots and other ethnic groups, and between kinds of land tenure systems. All of these conflicts are characterized by the misuse of political power for personal ends, through *de facto* political patronage networks.<sup>77</sup>

## Contradictory Arbitration Procedures

The government has embraced arbitration procedures in settling disputes in Kenya. At this point, it suffices to differentiate disputes from conflicts. Burton<sup>78</sup> notes that disputes are about interests, which do not, by their very nature, go to the heart of a conflict. Mwangi<sup>79</sup> further adds that disputes are merely a superficial element of conflict because they are

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<sup>77</sup> See ACTS: ‘Land Tenure and Violent Conflict in Kenya. In the Context of Local, National and Regional Legal and Policy Frameworks. A Report of the Consultative Conference Proceedings’ held at Hilton Hotel, Nairobi on 6 October 2008. p.5.

<sup>78</sup> J.W. Burton. *Conflict: Resolution and Prevention* (London: Macmillan, 1990).

<sup>79</sup> Mwangi, op.cit. pp.42.

concerned with disputes which are negotiable and can be bargained between two parties. On the other hand, needs are non-negotiable and must therefore be resolved unlike interests in a dispute that are mainly settled.

Most conflicts over land in Kenya are addressed through arbitration. This is a situation where the parties to conflict agree on the rules of the game.<sup>80</sup> In the long-run, arbitration leads to settlement of dispute since one of the parties to the conflict is left aggrieved.<sup>81</sup> In Kenya, the courts are clogged with land disputes and conflicts. The so-called land tribunals are also clogged up with the same. Quite often there is confusion as to who to be approached for arbitration: whether it is the Chiefs, elders, lawyers, advocates, surveyors etc. In such confusion, a number of land-related cases and disputes end up being violent and fatal.

It is evident that there are no clear mechanisms for managing such conflicts. The court system in particular, cannot be afforded and accessed by many Kenyans. This is manifested in the backlog of cases that courts handle; the fees accorded such process, the legal expertise that one has to pay for in form of lawyers or advocates, as well as the time that it takes for the successful dispensation of court cases related to land disputes. This notwithstanding, the manipulation associated with such a legal system leaves a lot to be desired. Nevertheless, as Kameri-Mbote<sup>82</sup> reiterates, state law is the ultimate and dominates other plural legal orders.

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<sup>80</sup> M. Mwangi, op.cit.pp.112.

<sup>81</sup> Ibid.

<sup>82</sup> P. Kameri-Mbote. *Property rights and biodiversity management in Kenya*. (Nairobi: ACTS Press,2002) p.7.

## Impact of the Mt. Elgon Conflict

Conflict is a major obstacle to the development of any given society and is a problem that deserves to be more clearly identified. Development here refers to long-term efforts aimed at bringing improvements in the technology, economic, political and social status, environmental stability and the quality of life. However, it is generally held that a society endowed with a good balance and distribution of solid social and economic resources, as evidenced by high human development indicators, is able to manage tensions with less risk of institutional and social breakdown than a society marked by destabilizing conditions such as pervasive poverty, extreme socio-economic disparities, systematic lack of opportunity and the absence of recourse to credible institutions to resolve grievances.

Whenever it occurs, conflict has socio-economic, political and psychological effects. This section reveals the effects the conflict in Mt. Elgon. It is widely acknowledged that the conflict in Mt. Elgon has negatively impacted not only on the lives of the communities living in the District but even for those outside the District. This is due to the fact that conflict affects an entire system. According to Mwagiru, every conflict is interconnected with other conflicts.<sup>83</sup> This section discusses the impact of the Mt. Elgon District. The conflict in Mt. Elgon is recorded to have led to over 600 people particularly during the period 2006-2008. The conflict also led to an increase in the number of widows and orphans.<sup>84</sup> Some of the family heads were recruited into the militia groups thereby uprooting them away from their family units.

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<sup>83</sup> M. Mwagiru, *Conflict in Africa. Theory, Processes and Institutions of Management* (Nairobi: CCR Publications, 2006) p.72.

<sup>84</sup> This information is based on the interview with Mr. Zadock Ndiwa, a local opinion leader on 15/09/2009. Also complemented with a Nation Television Documentary, *Caves and Skeletons*, 02 September 2009, 2100hrs.

Secondly, the conflict saw the displacement of over 45,000 internally displaced persons (IDPs). Some of them went to live with relatives in neighbouring Districts while others went into IDP camps. However, after the “*Operation Okoa Maisha*”<sup>85</sup> most of them went back to their homes while a few others have not returned. This displacement had adverse effects on food security. Agricultural production, the mainstay of the economy for the District was adversely affected. Agricultural as well as livestock production went down and prices for basic commodities shot up.

Many other sources of income were affected as communities lived in fear and insecurity. Trauma and stress remains a major effect of the conflict. Most families are traumatized by the horrific experiences of the conflict. According to Mwangi, conflict has a memory which needs to be understood and contextualized.<sup>86</sup> Stakeholders need to address this with a view to help generations that are coming up reconcile and live in harmony. Vandalism of infrastructure such as schools, health facilities was a major effect of the conflict. In fact, due to increased insecurity, a number of schools closed down until after the security operation was conducted to flush out the militia, who had effected a “war economy”.

### **An Overview of the Chapter**

This Chapter has made a detailed discussion of the Mt. Elgon conflict. It demonstrates that the conflict in Mt. Elgon revolves around land, an important and emotive natural resource in most societies. The Chapter traces the land problem from the colonial period and notes that successive regimes inherited the colonial legacy and perfected it over time, through sustained

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<sup>85</sup> This is a Kiswahili word that means “Save Lives”.

<sup>86</sup> M. Mwangi, *Conflict in Africa. Theory, Processes and Institutions of Management* (Nairobi: CCR Publications, 2006) p.13.

structural violence. The Chapter further notes that demographic pressure, inequitable access to land resources, and increased fragmentation of landholdings due to generational transfers, together caused loss of livelihoods and ecological marginalization of the poor peasantry. Internal political dissension arising from worsening levels of poverty has continued to threaten the community's survival. It is evident that the sources of the conflict are deeply embedded in the anomalous structures prevalent at both the national and local level.<sup>87</sup> Local regulatory mechanisms have been weakened by the centralization tendencies of government policies and legislation. These have over the years brewed structural violence that came to the fold during the physical violence.

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<sup>87</sup> This is well captured in the Report by ACTS,2008 op.cit.

## CHAPTER FOUR

### A CRITICAL ANALYSIS OF THE EFFECTIVENESS OF THE CONFLICT MANAGEMENT APPROACHES BY STATE AND NON-STATE ACTORS IN THE MT. ELGON CONFLICT

#### Introduction

This Chapter provides a linkage between the second and the third chapters by presenting five thematic areas that form the basis of this study. These are change in structure of the Mt. Elgon conflict<sup>1</sup> and its effect on the conflict management process; Change in Leadership of the Actors involved in the Mt. Elgon Conflict and its Effect on the Conflict Management Process; Dispute Settlement and its Effect on the Conflict Management Process; and, Conflict Resolution and its Effectiveness on Conflict Management Process. Issues emerging from the examination of these themes will be discussed in light of their contribution to the debates and assumptions of the theory of structural violence.

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<sup>1</sup> For further details of the discussion on change in the structure of the Mt. Elgon conflict, see chapter 3.

## CHAPTER FOUR

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<sup>1</sup> For further details of the discussion on change in the structure of the Mt. Elgon conflict, see chapter 3.

## Change in Structure of the Mt. Elgon Conflict and its Effect on the Management Process of the Conflict

As discussed in previous chapters, conflict transformation refers to outcome, process, and structure-oriented long-term peacebuilding efforts, which aim to truly overcome revealed forms of direct, cultural and structural violence. It moves beyond the aims of both settlement and resolution of conflict. Transformation in the structure of a conflict refers to the number of actors involved in a conflict and how they relate as a result of that number.<sup>2</sup> An increase in the number of actors involved in the Mt. Elgon conflict over the years significantly shifted as it attracted attention and drew in actors from all levels – local, national, sub-regional, regional and international levels.

Lederach,<sup>3</sup> Vayrynen<sup>4</sup>, Mwangi<sup>5</sup> and others, the involvement of different actors in any given conflict facilitates its significant transformation. They argue that the involvement of different actors brings on board diverse and conflictual interests, needs and perceptions. This in effect means that conflict transformation can occur by way of an increase in the number of adversarial actors.<sup>6</sup> It makes the conflict even more complex because each of the actors has its allies and constituents, issues and interests that need to be addressed. While a transformation leading to an increase in the number of adversarial actors in a conflict

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<sup>2</sup> R. Vayrynen, 'To Settle or to Transform? Perspectives on the Resolution of National and International Conflicts' in R. Vayrynen (ed) *New Directions in Conflict Theory: Conflict Resolution and Conflict Transformation* (London: Sage Publications, 1991) pp. 1-25.

<sup>3</sup> J.P. Lederach. *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington,DC.:United States Institute of Peace Press, 1997).

<sup>4</sup> See Vayrynen, op. cit.

<sup>5</sup> See M. Mwangi, op.cit

<sup>6</sup> Ibid.

increases the issues and the scope of the conflict, it also complicates the management of the conflict as demonstrated in this study. As the conflict progressed, it became more complex and difficult for both the state and non-state actors to deal with it.<sup>7</sup>

However, Vayrynen<sup>8</sup> argues that a reduction in the number of actors in any conflict leads to a concomitant reduction in the number of issues of the conflict and consequently de-escalation or success in management efforts. Kaplan<sup>9</sup> and Deutsch<sup>10</sup> also argue that bigger the number of actors, the more peaceful conflictual relationships get or the more manageable a conflict gets. While Kaplan adds that many actors ensure balanced competition with one another, leading to fair norms of interaction, Deutsch asserts that many actors in a relationship makes it more peaceable because if attention is scattered in keeping watch over numerous actors, no single antagonism can become deep enough for violent conflict.

Indeed, Vayrynen points out that the coming in of more actors opens new space for political action.<sup>11</sup> Coming in of many actors with various interests has the effect of either diverting or dissolving the contentious issues between the original parties to the conflict.<sup>12</sup> In addition international pressure pushes the actors to find a solution to the conflict. This was the case with the Mt. Elgon conflict that attracted attention from the wider international community thereby pushing the government to shoulder responsibility to ensure that there is cessation of

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<sup>7</sup> Interview with the UNOCHA Programme Specialist, Thomas Nyambane on 25/09/2009.

<sup>8</sup> R. Vayrynen, Op. Cit.

<sup>9</sup> M. Kaplan, *System and Process in International Politics*, (New York: Wiley, 1957), Chapter 2.

<sup>10</sup> K.W. Deutsch and J.D. Singer, 'Multipolar Power Systems and International Stability,' in Rosenau, J.N. (ed.) *International Politics and Foreign Policy*, 2<sup>nd</sup> ed., (New York: Free Press, 1969).

<sup>11</sup> R. Vayrynen, Op. Cit.

<sup>12</sup> A. de Reuck, 'The Logic of Conflict: Its Origin, Development and Resolution,' in Banks, M (ed), *Conflict in World Society: A New Perspective in International Relations*, (Sussex: Harvester Press, 1984) pp. 96-111.

violence by all means.

### **Change in Leadership of the Actors involved in the Mt. Elgon Conflict and its Effect on the Conflict Management Process**

Leadership entails the ability to influence the attitude and behaviour of others towards the achievement of a certain goal. Changes in leadership of the actors involved in a conflict affect conflict management efforts either positively or negatively. This is also determined depending on whether the new leadership is experienced or inexperienced; diplomatic or belligerent; whether it has a tendency for divisive, diversionary politics to gain local support versus consolidation with a view to take on a national look; and whether it takes a moderate or hard-line policy regarding the conflict.<sup>13</sup>

Vayrynen<sup>14</sup> asserts that change in leadership can lead to confrontational as opposed to diplomatic leadership. Brown<sup>15</sup> candidly admits that whereas some leadership changes lead to a transformation from hard-line to moderate leadership or vice versa, others lead to transformation from seasoned to inexperienced leaders, while others are compelled to shift from peace-loving to war mongering leadership and vice versa. This means that conflict transformation can occur by way of changes in leadership of the actors involved in a conflict.

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<sup>13</sup> For further details of the discussion on the effect of changes in leadership of the actors involved in the conflict on the management process of the conflict, see Chapter 2.

<sup>14</sup> See Vayrynen, *op.cit.*

<sup>15</sup> M.E. Brown, 'Ethnic and Internal Conflicts: Causes and Implications,' in C. A. Crocker, *et al*, (eds.) *Turbulent Peace: The Challenges of Managing International Conflict*. (Washington: United States Institute of Peace, 2001) pp. 209-226.

Ndiwa<sup>16</sup> a local opinion leader from Mt. Elgon District points out that the change in political leadership in Mt. Elgon from Hon. John Serut to Hon. Kapondi during the 2007 general elections had a 'cooling effect' on the conflict. In his view, the latter who had been implicated in instigation of the violence ascended to leadership and changed from confrontational to a relatively diplomatic leadership style that served to mobilize the actors in the conflict to embrace peace. It is also true that the death of the Commander of the SLDF, one Matakwei, changed the leadership dynamics of the militia group. It simply weakened the SLDF and made most of its sympathizers to surrender. Similarly, the change in approach by the state from non-coercive to coercive means through the '*Operation Okoa Maisha*' worked in pacifying the situation. It aimed at stamping out the illegal group that had held the lives of the locals at ransom. As one of the respondents remarked,

"...when it comes to matters of security management, there is no compromise. We needed to restore law and order first before we can sit the communities down and dialogue (sic). The government cannot dialogue with a militia group. It would be legitimizing it and hence making it difficult to stamp its authority and legitimacy."<sup>17</sup>

This operation never addressed the underpinning structural causes of the conflict that are likely to flare up in future. Nevertheless, changes in leadership in the actors involved in a conflict transform the conflict depending on the character of the incoming leadership as demonstrated in this study.

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<sup>16</sup> Interview of the researcher with Mr. Zadock Ndiwa on 15/09/2009.

<sup>17</sup> These remarks are based on an interview this researcher held on 01/10/2009 with a senior government official based at the Department of Defence (DOD) who participated in the "*Okoa Maisha Operation*".

However, it should also be noted that it is not merely change in leadership *per se* that leads to conflict transformation but changes in the interests of the actors and more so the larger community. It has often been demonstrated that over the years, the land issue in Mt. Elgon District has been used as an electoral platform. Owing to the structural violence that has gone on for a long time in the District and the surrounding areas, it was believed that the interest of the larger community was to have their issues addressed. Thus, the community has a say in what goes on in the District depending on their interests. Their word is final. This implies that for any conflict management initiatives to succeed, the community must actively be facilitated to participate.

### **Dispute Settlement<sup>18</sup> and its Effect on the Conflict Management Process**

Mwagiru<sup>19</sup> points out that for conflict management process to ensue, the parties to the conflict have to be encouraged to come together and do something about their conflict. Nonetheless, the attempt at doing so may either lead to settlement or resolution of conflict.<sup>20</sup> Conflict settlement is always anchored on the notion of power and leads to a 'win-lose' or 'loose-loose' situation where the root causes of the conflict are not addressed. It merely aims at settling the disputes by addressing the negotiable interests.<sup>21</sup>

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<sup>18</sup> For a detailed discussion of dispute settlement, see Chapter 2, pp.61-64.

<sup>19</sup> M. Mwagiru, op.cit., p.43.

<sup>20</sup> For a detailed discussion on of the debates on Conflict Settlement and Conflict Resolution, see Chapter 2.

<sup>21</sup> M. Mwagiru, op.cit

Approaches used by both state and non-state actors in addressing the Mt. Elgon conflict have largely been security management-oriented rather than conflict management-oriented. Such approaches are not geared towards conflict prevention. A lot of emphasis is on security operations, which are very costly and potentially counter-productive in the long-term. In fact, they do not contribute to trust and confidence-building between the state and the community. They only serve to increase the gap between the two actors. Many times, these security operations go hand in hand with disarmament programmes that are often *ad hoc*, disjointed and poorly-coordinated. The Mt. Elgon conflict illustrates this example. Even though the government moved in to disarm the SLDF, it never made an attempt to address the root causes of the conflict. The Government, for instance, established a Task Force for the Resettlement of Chebyuk III. The Task Force was merely to refocus on resettlement even without addressing the land question.

Further, the problem of proliferation of SALW for example, is only a manifestation of the conflict. Even when this was believed to have been addressed, the cross-border component of the small arms problem remains unattended. The study revealed that there are several local routes that facilitate the entry of illicit SALW. The study also established that at the time of the security operation in the District, no attempt was made to establish the number of illicit SALW in the hands of the civilians. This is yet another time-bomb that needs to be tackled in the long-run.

The international community emphasizes the need for peaceful conflict management approaches as bedrock of the international legal and political systems. In International Law,

for instance, the Charter of the United Nations<sup>22</sup> forbids the use of force or threat of the use of force in the conduct of relations between parties in conflict. It also provides a number of methods for peaceful settlement of conflicts.<sup>23</sup> Similarly, the Charter of the AU also emphasizes and specifies the methods of peaceful conflict management<sup>24</sup> and goes ahead to have the Commission of Mediation, Conciliation and Arbitration enshrined as one of its principal institutions.<sup>25</sup>

Worse still, they do not make use of the conflict early warning information that lays the foundation for all conflict prevention, management and resolution (CPMR) work. According to Davies and Gurr<sup>26</sup> whatever the context, it is important to be able to see early warning signs of developing conflict. In their view, conflict develops and progresses over time. The IGAD Conflict Early Warning and Response (CEWARN) Mechanism,<sup>27</sup> one of the most effective sub-regional conflict early warning systems in the African continent also reiterates this view. Yet, in most cases, both state and non-state actors fail to take this seriously. CEWARN Mechanisms are still weak in most of the conflict management programmes thereby negating the essence of early warning and early response.

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<sup>22</sup> Article 2(4), UN Charter

<sup>23</sup> Article 33, UN Charter

<sup>24</sup> Article 3 (4), AU Charter

<sup>25</sup> See T.O. Elias, 'The Commission of Mediation, Conciliation and Arbitration of the Organization of African Unity' *British Yearbook of International Law*, Vol.40 (1964) pp. 336-359.

<sup>26</sup> J. Davies & T.R. Gurr (eds), *Preventive Measures: Building Risk Assessment and Crisis Early Warning Systems* (Lanham,MD.: Rowman & Little,1998)

<sup>27</sup> See the CEWARN Protocol for the seven IGAD Countries- Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Sudan, Uganda signed in 2000.

## Conflict Resolution<sup>28</sup> and its Effectiveness on Conflict Management Process

The whole idea of conflict resolution has a significant effect on the conflict management approaches and therefore conflict management process for the Mt. Elgon conflict. Conflict resolution refers to all processes and activities that aim to address the underlying causes of direct, cultural and structural violence. Structural violence defines the social, political and economic structure of a conflict situation when unequal power, domination and dependency are perpetuated, while cultural violence refers to the social and cultural legitimization of direct and structural violence.<sup>29</sup>

In cases where peacebuilding activities are undertaken, these have remained unsustainable. The study established that at the height of the conflict, the number of actors in the conflict was very high. After the violence subsided, most of the actors left and abandoned the conflict management and peacebuilding programmes that they had begun. Peacebuilding consists of policies, programmes and associated efforts to restore stability and the effectiveness of social, political and economic institutions and structures in the wake of a war or some other debilitating or catastrophic event.

According to Boutros-Ghali, peacebuilding consists of 'sustained co-operative work to deal with underlying economic, social, cultural, and humanitarian problems...'<sup>30</sup> The study established that facilitation or consultation in the form of controlled communication; a series

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<sup>28</sup> For an in-depth discussion of conflict resolution, see Chapter 2, pp.61-64.

<sup>29</sup> M.K.Juma (ed), *Conflict Prevention, Management and Resolution in Africa: A Reader* (Pretoria: Pretoria University Law Press, 2007) p.108.

<sup>30</sup> B. Boutros-Ghali, *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peacekeeping* (New York: United Nations, 1992).

of community civic dialogues have been held; problem-solving workshops<sup>31</sup> have been facilitated; public meetings have been conducted with a view to pacify communities and appeal for peace. Confidence-building measures have also been undertaken to help in building trust and confidence between the adversarial actors with a view to consolidate peace.<sup>32</sup> However, according to Curle,<sup>33</sup> there are two concepts of peace: negative and positive peace that lead to 'unpeaceful' and 'peaceful' societies respectively. Positive peace obtains in a situation where there is a stable social equilibrium aimed at overcoming structural anomalies in the society. Negative peace entails the mere absence of physical violence. In view of this, the latter applies for Mt. Elgon.

According to one respondent working on humanitarian issues<sup>34</sup>, most of the NGOs could no longer get funding from the donor community hence the scaling down of activities and eventual withdrawal. This demonstrates that the conflict management approaches and methods used are ineffective since they do not consistently engage the communities. Critical issues such as trauma healing; reconciliation; psychosocial counseling have not been fully addressed thereby leaving communities in an indeterminate state. Nonetheless, at the conclusion of this study, the European Union (EU) had pledged to support peacebuilding and conflict management programme while the German Government had pledged to support the integration of internally displaced persons (IDPs) through a KSh.50 million programme.<sup>35</sup> It suffices to mention that as much as external funding will cushion the efforts of the national state and non-state actors, sustained support from the intrastate is required if peace and

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<sup>31</sup> For a detailed discussion of problem-solving workshops, see Chapter 2, pp.49-50.

<sup>32</sup> For detailed discussions on confidence building measures, see Chapter 1, p.18-19.

<sup>33</sup> A. Curle, *Making Peace* (London: Tavistock Publications, 1971).

<sup>34</sup> Interview with Mercy Manyala, a Programme Officer with UNOCHA held on 12/07/2009.

<sup>35</sup> 'Mt. Elgon: Sh.50m boost for peacebuilding and healing', *Saturday Nation*, October 24, 2009, p.9.

reconciliation has to return to Mt. Elgon.

### **An Overview of the Chapter**

This Chapter has explored five main themes that run through this study. It has made a critical analysis of the effects of conflict transformation with regard to change in structure of the conflict; and change in the leadership of the actors to the conflict; together with conflict resolution and dispute settlement on the conflict management approaches taken in addressing the Mt. Elgon conflict.

## CHAPTER FIVE

### CONCLUSIONS AND RECOMMENDATIONS

#### Introduction

This study investigated the effectiveness of the conflict management approaches to the conflict in Mt. Elgon District by both state and non-state actors. This Chapter provides a summary of the Chapters. Arising from the findings of the study, the Chapter focuses on critical thematic areas that form the basis of this study. It makes conclusions and draws lessons learnt from the study. It also makes recommendations for consideration by a wide range of actors involved in conflict management.

#### Chapter Summaries

Chapter One of this study provides the background information on the study and thus forms the crux of the study. The Chapter details the roadmap for the Thesis with well-thought out statement of the problem, objectives, hypotheses, justification and theoretical framework. It also delves into review of literature relevant to the study, research methodology, sources of data, scope and limitations of the study. An outline of the Chapters for this study is also provided in this particular Chapter.<sup>1</sup>

Chapter Two focuses on the debates on conflict management approaches by both state and non-state actors. It delves into the various debates advanced by a wide range of scholars.

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<sup>1</sup> For further details on the background of the study, see Chapter 1.

Among the debates that the study enters include official or state versus non-official or non-state conflict management approaches; debates on conflict transformation; debates on ripe moments; debates on conflict settlement and resolution; debates on impartiality of actors involved in conflict management; and finally, debates on single or multiparty actors in conflict management.<sup>2</sup>

The Third Chapter entails the case study. It focuses specifically on the conflict in Mt. Elgon and establishes that land as a natural resource is the main cause of the conflict. The Chapter provides a profile of Mt. Elgon District. It goes further to provide an overview of conflicts over natural resources based on relevant literature. The Chapter also provides a critical analysis of the land-based conflict in Mt. Elgon District and identifies numerous sources of the conflict including the following: inequitable land distribution and access; discriminatory or unclear land tenure systems; competing land claims and uses; land scarcity; social exclusion and identity; bad governance coupled with weak national and local institutions and arbitration procedures. It also notes the central role played by politics in exacerbating the conflict. Finally, the Chapter highlights the main impacts of this conflict.<sup>3</sup>

Chapter Four of this study forms a critical discussion of the major findings. The Chapter analyzes the responses obtained from the interviews conducted and questionnaires administered with a view to gauge the effectiveness of the conflict management approaches used by state and non-state actors in Mt. Elgon District. It goes further to identify the categories of actors involved in the management of the conflict.<sup>4</sup>

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<sup>2</sup> For detailed debates on conflict management approaches by state and non-state actors, see Chapter 2.

<sup>3</sup> A critical analysis of the Mt. Elgon Case study is provided in Chapter 3.

<sup>4</sup> For further details on the critical analysis of the findings of this study, see Chapter Four.

## Conclusions

This study made an investigation into the effectiveness of the conflict management approaches by state and non-state actors in the Mt. Elgon conflict with a view to assessing their effectiveness. The study further illustrates that the conflict management processes have seen the involvement of many actors, including both meddlers and strategic spoilers. The process dragged on for a long time through-out the Kenya regimes and not only failed to produce positive results but also delayed the possible emergence of both local and national solutions to the conflict.

However well-intentioned, the conflict interventions were, available documentation shows that these efforts directed at management of the conflict served to exacerbate and complicate the land problem instead.<sup>5</sup> Certain vested interests lay at the heart of the prolonged conflict and lack of sustainable solutions to the conflict in Mt. Elgon whose structural causes remain unattended.<sup>6</sup> The evidence put forward by the study confirms the hypothesis that the conflict management approaches by state and non-state actors have been more settlement-oriented than resolution-oriented.

The study establishes that the conflict in Mt. Elgon has dragged on for a long time. It stretches from the colonial through independent to post-independent Kenya. This conflict is embedded in the anomalous structures in the society.<sup>7</sup> Among this is the land question which has elicited serious rivalries and competition among the various actors from within and

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<sup>5</sup> This view is based on the interview with a senior official of the UNON held on 29<sup>th</sup> September, 2009.

<sup>6</sup> ACTS Report, op. cit; UNDP/UNOCHA Report, op. cit.

<sup>7</sup> ACTS: 'Land Tenure and Violent Conflict in Kenya. In the Context of Local, National and Regional Legal and Policy Frameworks'. A Report of the Consultative Conference Proceedings held at Hilton Hotel, Nairobi on 6 October 2008

without the District. This finding therefore, confirms the hypothesis that land is the main cause of the conflict. It points out that the various actions taken by the colonial Government and the successive post-independence regimes in Kenya have to a large extent influenced the course of events in Mt. Elgon. The economic, political, social, environmental and legal contexts within which the conflict has transformed over time, has served to generate and sustain the conflict. The socio-economic context, for instance, social differentiation of the groups in the District has to a large extent influenced access to; control over the resource. Similarly, the legal system that provides for the application of both traditional and formal legal systems has continued to generate and prolong the conflict.

Most of the formal legal systems while guaranteeing fairness and equitable treatment in principle, they exacerbate the conflict by not recognizing the customary practices. Effective conflict management must therefore work with environmental, political, legal, social and economic contexts which to a large extent influence the progression of the conflict, the actors and resources; and also the stakes and their help in determining the appropriate approaches for conflict management.

The role of actors in conflict management is critical. This study therefore, reveals the multiplicity of both state and non-state actors in the Mt. Elgon conflict. These actors responded to the conflict in different ways, for different reasons and interests, with different levels of commitment and consistencies. Among these actors are government, UN agencies, non-governmental agencies, international organizations. Peace Committees have also been established at the District, Divisional, Locational and Sub-Locational levels. In there interventions, these actors acted out of security, economic and humanitarian concerns. They

took an interest in the conflict or in its management. They were concerned with the protracted and spill-over of the local population deserting their homes, others crossing over into Uganda .

### **Lessons learnt**

Perhaps the first major lesson to learn from the conflict management process in Mt. Elgon District is that there is no “quick fix” to conflict. Attempts at quick fix solutions often lead to settlement rather than resolution of conflict.

The second lesson that can be drawn from the conflict management process is that including all stakeholders, though necessary, is also problematic if not well managed. It must take into consideration these strategic spoilers. The challenge then comes in when principles of accountability, transparency, commitment, impartiality are called for. There is need for enhanced and sustained communication and engagement of the actors.

Thirdly, in any conflict management process, the power relations and interests of stakeholders need to be carefully take into consideration. It is true that if the interests of any one stakeholder are ignored, full implementation of peace pacts can be compromised. Training in conflict prevention, management and resolution can be useful in bringing divisive and contentious issues into the open so that they are addressed and managed.

## **Recommendations**

This study acknowledges that the greatest challenge to the conflict management and the attendant peacebuilding activities and programmes in Mt. Elgon lies in the quality of commitment and political will of the various related actors both in the conflict and the management process.

Secondly, efforts should be made at all levels to embrace conflict sensitive development approaches. This will ensure that any interventions in development are well designed with the inclusion of all stakeholders so as to further guarantee ownership.

Thirdly, there is need for further research into the activities of the criminal gangs such as the SLDF and the role of ex-servicemen in these groups; and, the extent and magnitude of proliferation of illicit SALW in the District. Indeed, there was information that they were rising up to defend their traditional land. However, owing to the way in which the violence and insecurity was effected, with semblances of a war economy where the locals were asked to give money for security, this illegal activity calls for further research.

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Nairobi

Dear Respondent,

I am currently pursuing a Master of Arts Degree Course in International Conflict Management at the Institute of Diplomacy (IDIS), University of Nairobi. I am conducting research that will inform the finalization of my Research Project titled : **An Assessment of the Conflict Management Approaches by State and Non-State Actors in Kenya: A Case Study of the Mt. Elgon Conflict.**

The questionnaire attaché hereto is aimed at gathering information on the conflict management approaches used in addressing the conflict in Mt. Elgon District. I request you to spare time and candidly respond to the questions therein.

I wish to assure your response will be treated with strict confidentiality of you responses and that the information provided shall not be put to any other use outside the objective of the study.

Yours sincerely,

Dickson L. Magotsi

## QUESTIONNAIRE

Kindly read the instructions in each section very carefully.

**SECTION A: PERSONAL DETAILS**

Please tick  as appropriate:

**1. Age:**

Below 20 years

21-30 years

31-50 years

Over 50 years

**2. Gender: Male  Female** **3 Profession/Preoccupation**

Employed

Not Employed

Self-Employed

Student

**4. If employed, which category of organization?**

Government

UN Agency

International NGO

Local NGO

FBO

Private Sector

Media

Other (Please specify .....)

**SECTION B: BACKGROUND TO THE MT. ELGON CONFLICT**

5. Are you aware of the conflict in Mt. Elgon? Yes  No

6. From your understanding of the conflict, how old is it?
- Since independence
  - After independence
  - Since introduction of multipartyism
  - I don't know
  - None of the above

7. From your knowledge and understanding, list the main causes of the conflict in Mt. Elgon? (*Please list in order of priority: from the core to the least*)

- a) .....
- b) .....
- c) .....
- d) .....
- e) .....
- f) .....

8. What is the significance of this conflict? (*Tick all that apply*)

- a) Loss of lives
- b) Displacement of people
- c) Physical bodily harm
- d) Vandalism and destruction of infrastructure
- e) Proliferation of illicit small arms and light weapons
- f) Recurrent conflict
- g) Impoverishment and loss of income/livelihood
- h) Insecurity and fear of investment
- i) Rape and sexual abuse
- j) Trauma and stress