

**IMPLICATIONS OF ELECTORAL MANAGEMENT PRACTICES ON  
INTERETHNIC RELATIONS: A CASE OF 2007 GENERAL ELECTIONS IN  
UASIN GISHU AND TRANS-NZOIA COUNTIES, KENYA**

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SCHOOL OF ARTS AND SOCIAL SCIENCES, DEPARTMENT OF POLITICAL  
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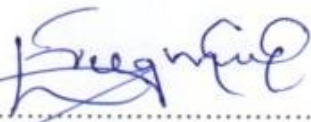
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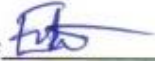
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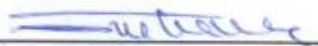
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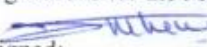
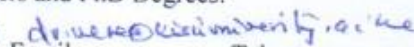
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## **DEDICATION**

This thesis is dedicated to my husband Nicholas and my sons Alex and Collins

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## ABSTRACT

Interethnic relations have been variously affected as a result of electoral management practices within the democratic frameworks of many countries in the world. Whereas ethnic relations are not so much affected in the developed world, developing countries with multi-ethnic diversities tend to experience adverse effects which include violent interethnic relations. Trans Nzoia and Uasin Gishu in Kenya, have been experiencing violent interethnic relations during the General Elections due to loose electoral management practice in the area. The role of electoral management practices in violent interethnic violence has not been appropriately addressed by scholars. It is on this basis that this study was carried out to assess the implications of electoral management practices on interethnic relations: A case of 2007 Elections in Uasin Gishu and Trans Nzoia Counties. The specific objectives of the study were to: examine the pattern of electoral management practices that influenced interethnic violence, to assess the contribution of the structural context of electoral management practices in 2007 on interethnic relations in Uasin Gishu and Trans Nzoia Counties, to assess the challenges of electoral management practices in 2007 General Election on interethnic relations and to evaluate the effectiveness of the mitigation strategies adopted in the electoral management processes to improve interethnic relations in Uasin Gishu and Trans Nzoia Counties. The study adopted a qualitative research design using descriptive survey research and mixed-method approaches. Primary data was collected in Burnt Forest in Uasin Gishu and Kachibora in Trans-Nzoia Counties. The target population was 6,618 which included victims of elections, counting clerks, polling clerks, security officers and key informants comprising Camp administrators, County Commissioners, Chiefs, Village Elders, Registration clerks, Presiding Officers, County Returning Officers, Election Observers, Political Candidates, and Election Agents. The sample size was 363. This study used the conflict theory by Johann Galtung and the relative deprivation theory by Davis and Gurr and Models of Electoral Management by Catt *et al.* Data collection was through interviews, questionnaires and Focus Group Discussions which were tested for validity and reliability. Data was analysed using descriptive statistics and content analysis. Findings from this study were presented in tables, pie charts, and bar graphs. It was found that electoral management practices have a pattern of instigating disputes that eventually contribute to interethnic violence. In addition, the structure of the electoral management body is amenable to manipulations thus facilitating electoral malpractices that fuel interethnic violence. Further, it was established that Electoral management is adversely affected by political influence on funding, recruitment of electoral officials and insufficient time to carry out its activities. The structural contexts of electoral management influenced ethnic relations leading to election violence and the mitigation measures in place were not effective to eliminate interethnic hatred. The study concludes that electoral management practices contribute to interethnic relations. The study will assist the government and policymakers to put in place measures to mitigate electoral management malpractices. Researchers will also benefit from the study in carrying out further research on the role of Electoral management system in other counties where similar problem exist. The study recommends that the electoral management ought to be restructured to have a positive impact on interethnic relations in the two counties. Re-designing of policy frameworks and strategies of the electoral process to curb election violence during the election cycle should be taken into account.



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## **LIST OF ABBREVIATIONS**

<b>APP</b>	All People's Party
<b>AU</b>	African Union
<b>BVR</b>	Biometric Voter Registration
<b>CIPEV</b>	Commission of Inquiry on Post-Election Violence
<b>CNN</b>	Cable News Network
<b>COTU</b>	Central Organization of Trade Union
<b>CPP</b>	Convention People's Party
<b>DRC</b>	Democratic Republic of Congo
<b>ECK</b>	Electoral Commission of Kenya
<b>EISA</b>	Electoral Institute of South Africa
<b>EMB</b>	Election Management Body
<b>EMK</b>	Electoral Management of Kenya
<b>EMPs</b>	Electoral Management Practices
<b>EU</b>	European Union
<b>FM</b>	Frequency Medium
<b>FORD</b>	Forum of Restoration for Democracy
<b>ICC</b>	International Criminal Court



<b>IDP</b>	Internally Displaced Persons
<b>IEBC</b>	Independent Election and Boundaries Commission
<b>INEC</b>	Interim National Electoral Commission
<b>IPPG</b>	Inter Parliamentary Party Group
<b>IREC</b>	Independent Review Commission
<b>KADU</b>	Kenya African Democratic Union
<b>KANU</b>	Kenya Africa National Union
<b>KBC</b>	Kenya Broadcasting Corporation
<b>KNDR</b>	Kenya National Dialogue and Reconciliation
<b>KPU</b>	Kenya Party of Unity
<b>MCA</b>	Member of County Assembly
<b>MDC</b>	Movement for Democratic Change
<b>MP</b>	Member of Parliament
<b>NAC</b>	National Alliance for Change
<b>NAK</b>	National Alliance of Kenya
<b>NARC</b>	National Rainbow Coalition
<b>NCCK</b>	National Council of Churches of Kenya
<b>NDC</b>	National Democratic Congress

<b>NDP</b>	National Democratic Party
<b>NEDEO</b>	Network of Domestic Election Observers
<b>NEMU</b>	National Election Monitoring Unit
<b>NGO</b>	Non-Governmental Organization
<b>NPP</b>	National Peoples Party
<b>ODM</b>	Orange Democratic Movement
<b>PNDC</b>	Provisional National Defence Council
<b>PNU</b>	Party of National Unity
<b>RUF</b>	Revolutionary United Front
<b>SADC</b>	Southern African Development Community
<b>SEOM</b>	SADC election observation mission
<b>SLPP</b>	Sierra Leone People's Party
<b>TNA</b>	The National Alliance Party
<b>TV</b>	Television
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>UNHCR</b>	United Nations High Commission for Human Rights
<b>URP</b>	United Republican Party

**USA** United States of America

**ZANU-PF** Zimbabwe African National Union-Patriotic Front

## CHAPTER ONE

### INTRODUCTION

#### 1.1 Background to the Study

For a long time, general elections have been a fixture of every democracy in the globe. Elections must be held on a regular basis in accordance with international and regional accords. Democracy, as defined by the United Nations General Assembly along with Democracy (World Summit in September 2005), is a universal value founded on the people's freely expressed will to determine their own social-economic, political, as well as cultural systems as well as their full participation in all facets of their lives. Elections that are fair and free serve as a perfect example of this. This means that only legitimate elections held on a regular basis can really represent the aspirations of the people (Carter Centre, 2016). General elections are typically conducted every five years in the majority of countries.

In some developed countries, elections are relatively orderly and peaceful. However, in the United States of America, there have been incidences of alleged malpractices including gerrymandering, ballot stuffing, fraud, and voter intimidation that have dented the democratic credentials of the country. In 2020, the country experienced post-election violence instigated by the president on the pretext of alleged election rigging. As per the Declaration of Principles for International Election Observation along with Code of Conduct for International Election Observers (DPIEO and CCIEO) (2005), the United States of America gained prominence as a model of an open, free, and equitable system after the Voting Rights Act was passed, granting voting rights to minorities, particularly African Americans. Furthermore, what was once considered a major democratic accomplishment is not anymore the case in the most recent polls; its 2016 presidential contest was allegedly tainted by both domestic and foreign intervention, and its national elections for

congress and the presidency were held in the midst of sharp increases in casting votes restrictions, intimidation of voters, and extreme gerrymandering after the Supreme Court struck down several essential Voting Rights Act provisions. This indicated that electoral management practices have become common even in societies presumed to be highly democratic contributing to election violence, however, these electoral malpractices are not a result of interethnic relations as it applies to most African countries such as Kenya, and Nigeria among other.

Therefore, the foregoing phenomenon generally contradicts conventional knowledge in electoral management process as a guarantee not only for democratic development but as a panacea to the pre- and post-election interethnic animosities witnessed in several states in the developing world as well as a couple of them in the developed world (Teshore-Bahira,2008). Electoral management malpractices have been identified as key factors in the violence seen after the USA, 2020 elections (Elena Gorbacheva, et al, 2021), 2021 elections in Uganda (Bruce, 2021), 2021 elections in Tanzania (<https://s3-eu-west->).

Many elections held in developing countries have not met the internationally accepted requirements of free and fair elections. According to International Foundation for Electoral Systems (IFES, 2015), in developing democracies, legal frameworks are often more ambiguous and susceptible to dispute. Fraud, or allegations thereof, compounds these challenges, as do a poorly administered election or a general climate of insecurity and impunity. The process therefore must be of high integrity, open, transparent, accountable, and competitive to allow popular participation. “The credibility of the outcome depends on the strength of the electoral legal framework, the integrity of the electoral management body, and the dispute resolution process, as well as on the extent of public confidence in the legitimacy of electoral and other government institutions” (IFES, 2015, p.2). According to Maureen, (2013) posts by President Aristide and Pre’val in Haiti, both served two non-consecutive terms which were marred by

alleged irregularities, low turnout, and opposition boycotts. This is a reflection of a failed democracy. If all these are not adhered to, the probability of electoral violence is likely to occur which hinders relations among communities.

In Hungary, "major malpractice" plagued the 2018 elections that resulted in a huge parliamentary majority and a third term in office for Prime Minister Viktor Orbán. A rights organisation outlined significant allegations of fraud and vote-rigging in the poll held in April 2018. Transporting voters from nearby nations like Ukraine, bribery and intimidation, particularly in rural areas, tampering with postal votes, absentee ballots, and problems with election software are among the incidents classified as "major malpractice" (<https://www.france24.com>). This was attributed to election malpractices which were used to retain the incumbent in power for the third time. The scenario which took place in Hungary has similarities in most of the African states only that the environment was in a different continent and how it impacts to interethnic relations is an issue to be addressed.

In Asian countries electoral violence is prevalent such as India, Pakistan, Philippines, and Malaysia. For example, in the Philippines, 75 people were killed before elections in 2007 and 80 more were wounded in electoral-related violence. (Atuobi, 2008). Likewise, in Pakistan, the electoral history is cherished with malpractices that have resulted in political instability. Pakistan has continuously been struggling with democracy but failed to develop mechanisms and conditions for political development. (Muhammed, 2021). This indicates the inconsistency in the proper management of elections in Pakistan.

However, the same cannot be said of developing countries in Africa where electoral violence has been experienced in most countries for Nigeria (WANEP, 2014), Uganda (Bruce, 2021), and even in Tanzania (<https://s3-eu-west>). In most cases, election management is not effective enough to guarantee free, fair elections. Rather; it ensures the regimes 'continuation in power under a veneer

of legitimacy. This is contrary to international treaties which require that the legal framework be consistent with international human rights (U.N. ICCPR art.2). In such countries, opposition political parties are restricted by the ruling government or prevented from appearing on the ballot and when they are allowed, the government in power ensures its victory in elections by setting unfair rules or simply fabricating the electoral results (DPIEO & CCIEO, 2005) for example in Nigeria, Uganda, Zimbabwe to name a few have demonstrated behaviour of conducting unfavourable election results in the recent years. In view of the violation of legal framework contrary to international human rights, it facilitates unfairness in the electoral process leading to ethnic tensions among communities.

In Nigeria, electoral history has been marred and characterized by various levels of violence at the pre, during, and post-election phases, with high effects including deaths, displacement, and destruction of livelihood as was witnessed during the 2011 (WANEP, 2014) general elections. Further, while the elections were said to be free and fair by international observers, with accompanying significant improvements from the previous elections, the post-election crisis remains one of the most violent in the country's history where about 800 people were killed in three days riot that followed the Presidential Elections in 12 states in Northern Nigeria. The violence was attributed to the inherent inadequacies in electoral management contributing to ethnic enmity.

The frequency and predictability of Electoral violence have further raised questions regarding the handling of electoral management on the African continent. Whereas elections are hailed as the hallmark of democracy and accepted as means of choosing leaders periodically. They have instead been turned into a tool for usurpation of power by incumbent leaders. For instance, in Zimbabwe during the regime of Mugabe and Zambia in the 2016 General Elections when the elections

management did not allow the public to exercise their mandate of democratically electing the leaders of their own choice.

In most African countries, elections are expected to promote democracy but instead, they derail democracy. Political leaders use elections to pursue their interests at the expense of the electorate and in the process, animosity is created between communities which results in heightened tensions contributing to General Election violence. In Nigeria for example, in terms of implications of electoral violence in the country, electoral violence has almost undermined the democratic gains in the country despite operating the system for about 16 years after military disengagement from politics in 1999. The way politicians view politics and elections almost rubbish the ideals of a democratic system and makes the country merely experiment with civil rule (Lawrence, 2015).

In Zimbabwe and Uganda, electoral management processes have not engendered democratization (Teshome-Bahira, 2008). In these countries, there is ample evidence pointing at electoral abuse, including gerrymandering, ballot stuffing, fraud, and voter intimidation.

In Uganda for example violence took centre stage. Uganda's presidential election was held on January 14, 2021, preceded by weeks of government-sponsored violence; the arrest of opposition candidates; the kidnapping of party and campaign staff held at undisclosed military locations; the repeated arrest of opposition leader Robert Kyagulanyi (a/k/a/ Bobi Wine) in particular; the killing by the military of at least 54 protestors and bystanders between November 18-20, 2020 and the wounding and mutilation of hundreds. Such violence was accompanied by the arrest and detention of lawyers working for the opposition candidate (Bruce, 2021). This implied that the government was in control of opposition parties.

Further, according to the report, two days before the election, the military fanned out throughout Uganda's towns and cities, giving rise to an atmosphere of terror and coercion that compelled



many, perhaps most, voters to stay home. Extensive evidence of election tampering, pre-marking of ballots for General Museveni, ballot-stuffing, coercion of voters by the military, shutdown of all communications before the election, arrest of campaign staff and candidates, the lack of voter privacy, the illegal casting of votes before voters arrived at polling stations, reports of 100%, 99%, and 98% vote for Museveni at large numbers of polling sites, entire districts reporting 100% vote for Museveni, and other fraudulent acts and irregularities were experienced (Bruce, 2021).

The internet shutdown interfered with the prompt collating of voting results. Ordinarily, Uganda uses an internet-based system for collecting and forwarding voting responses but could not due to the Internet shutdown. The lack of internet access also prevented the use of biometric scanning machines to identify voters, further delaying voting, a process that discouraged voter turnout, and prejudicing the opposition (Bruce, 2021). This demonstrates that the Ugandan government takes the upper hand in the running of electoral management. Electoral management is done by state-controlled electoral bodies whose mandate does not guarantee independence or fairness.

In Tanzania, the state takes the upper hand during elections. Incidences show that Tanzania's National Election Commission the state control incidents on the opposition are common. For instance, since electioneering began for the 2020 polls, both National Election Commission and Zanzibar Election Commission have disqualified a large number of opposition candidates, mostly for local councillorships, though on what grounds is unclear.

The National Electoral Commission (NEC) which is in control of elections was established in 1993 and reflects government involvement despite its autonomy. Complaints from Tanzania's opposition parties, human rights organisations, and religious institutions on its lack of autonomy, which, they claim, favours the government and the ruling party, since its senior appointments and finances are dependent on executive favour. The same applies to NEC's Zanzibar counterpart, the Zanzibar Electoral Commission (ZEC) was roundly condemned by local and external election

observers when it cancelled the election results on Pemba and Unguja after an initial vote count suggested a narrow Civic United Front (CUF) victory over Chama Cha Mapindizi (CCM) (<https://s3-eu-west->). It portrays a clear indication of government involvement in the running of elections.

In Tanzania, the NEC appoints returning officers to supervise local and national elections. Under the National Elections Act (2010) District Executive Directors (DEDs) may be appointed returning officers in elections. But district executive directors are political appointees and there is evidence that many are active members of the ruling party. On the same note, Tanzania's main 'National and Defence Security Organs' consist of the Tanzania People's Defence Force (TPDF), the Tanzanian Police Force, the Tanzania Intelligence and Security Services, the National Security Council and the Prevention of Corruption Bureau (PCCB) ([Though all citizens are theoretically equal under the law, the executive dominance of the country's security organs means that opposition parties are invariably targeted in the enforcement of the relevant laws and regulations. In addition, numerous actions of the security organs are of dubious legality, which is why they are regularly challenged by the aggrieved parties in a court of law. The governments take control of the working of elections hence interfering autonomy of the national electoral commission.](https://s3-eu-west-</a></p></div><div data-bbox=)

However, it is in contrast to electioneering in some democratic societies such as Ghana; elections demonstrate a maturing democratization process that is characterised by free and fair processes, and the citizens' decisions are respected. In such cases, successful elections represent a true manifestation of democracy, since they give an opportunity to the electorate to choose their leaders and the way they want to be governed.

Although holding an election is considered a milestone, it is not a guarantee of Africa's democratic legitimacy. However, true legitimate elections are a manifestation of a nation's sovereignty, which is attributed to its citizens, whose right to free speech serves as the foundation for the legitimacy and power of the state (UN, 2005). This has been genuinely practiced well in some African countries where political leaders have embraced democracy hence the reduction of negative interethnic relations.

Kenya has held presidential, parliamentary and civic elections every five years since her independence in 1963 (Oyugi, 2006). The elections have been held subject to existing legal requirements and political contexts. Their fairness is therefore debatable in the one-party system, some basic rights and principles such as freedom, fairness, and transparency during elections were not guaranteed. It involved intimidation, vote buying, massive rigging, and other vices which undermined the electoral process. Wanyande (2006) claims that all of the candidates were supported by the ruling party under the one-party system. A small group of influential party politicians also controlled and oversaw the nomination process, making ensuring that only candidates who were approved by the dictatorship were nominated and eventually elected. As a result, voters had little say in who was nominated or selected to run for office in parliament. Many people believed that elections were manipulated in some areas to benefit candidates who supported the status quo (Wanyande, 2006). Thus, the elections served primarily as a selection process wherein candidates deemed politically acceptable by the dictatorship were nominated to represent the interests of the people.

This is further evidenced in the introduction of queue voting in 1988 where massive rigging dominated the scene (Oyugi, 1997). On the other hand, the state was the primary user of violence for a very long period. According to Amutabi (2002), the KANU rule involved political intimidation against opposition parties and other forms of persecution, including torture and

incarceration without trial, against anyone who opposed the status quo. According to the aforementioned research, election violence resulted from governmental control over the process, that did not give democracy the upper hand. Once the electorates are denied their rights to exercise power, it paves the way for a build-up of tensions between inter-communities.

During Moi's regime elections were held largely when Kenya was a one-party state controlled by the Kenya African National Union (KANU) party. Between 1969 and 1991, the five cycles of General Elections held during the period (1969, 1974, 1979, 1983, and 1988) were KANU-controlled elections. These elections were marred with rigging and other irregularities with the one in 1988 being the most contentious (Mwaura, 1997). The 1988 General Elections that involved queue voting was aggressively opposed by many civil society groups (Oyugi, 1997). It involved massive rigging where candidates with short queues were declared winners in the full glare of the electorates (Mwaura, 1997). There was an outcry from within and without concerning the legitimacy of the elections and the subsequent regime.

Violence has historically been widespread in Kenya for a variety of reasons, including the nation's socio-political and economic structures, which make these outcomes unavoidable (Adeagbo & Iyi, 2011). Following independence, social ties between the two major ethnic groups, the Kalenjins as well as the Kikuyus, had become tense, with disputes frequently arising from the desire for and control over the limited amount of fertile land. This is evidenced in the General Elections of 1992 and 1997 which may have sparked the post-election violence of 2007 affecting interethnic relations in the country.

This acrimonious relationship has constantly undergone generational shifts metamorphosing of course, but never really going away (Adeagbo & Iyi, 2011). This has been a reality, especially in the era of multi-party politics since 1991. Could land resource distribution ownership have been a factor in the aftermath of the 2007 election violence? The land issue in Kenya has been a serious

factor even before independence. Interethnic violence was common among the pastoralist communities. Communities were fighting for pasture and water resulting to build up of tensions. After independence, the land factor became a problem because communities were moved from their ancestral land by the then regime because of their selfish interests thus destabilising other communities. That movement created tensions between communities leading to electoral violence in the previous elections of 1992, 1997, and even 2007 post-election violence.

The reintroduction of multiparty politics in Kenya saw the occurrence of electoral violence every five years. As a consequence, at least 4,433 people have died and over 1.8 million people displaced during electoral periods (HRW, 2013). The introduction of multi-party politics was about creating an organisational framework within which other parties could contest for power against KANU (Chelang'a, Ndege & Singo, 2009). Thus, the attempts of the president at the time to maintain his position of authority after multi-party elections marked the beginning of electoral violence. The state grudgingly consented to elections with multiple parties in 1991 under pressure from both its citizenry and foreign allies (Omeje, 2012). In order to stay in office, a number of public officials manipulated public opinion and incited conflict, which reduced the effectiveness of the new system. This resulted, partly, from the presidency's ability to select high-ranking personnel in the treasury, security apparatus, and judiciary while allowing minimal scrutiny from other governmental agencies (Omeje, 2012). People needed a fair political system where the powers of the president could be reduced and more powers delegated to the grassroots levels.

Nasong'o (2000) argues that the democratisation process which took place in Africa in the 1990s was a wave across Africa and other developing nations of the world. Countries such as Ghana, and Zaire were fighting for multi-party democracy which was seen to have yielded better governance in the developed world. In Kenya, during Moi's regime, there was an apparent reluctance to embrace multi-party politics. General Election management-related violence took

place not just in 1992 but also, in 1997 when the country had embraced multiparty politics. Nasong'o's view however explains how electoral violence occurs during election periods only as opposed to when the country is free from elections. The author does not mention whether electoral violence occurs before, during, or after elections. This situation becomes questionable because the post-election violence of 2007 was unique from the past election cases of violence.

Evidence points to ethnic polarisation as a factor in Kenya's electoral violence. However, the violence witnessed in 1991-1992, on the advent of multiparty politics can be explained in terms of the misuse of the state power to the advantage of a few and the consequent instigation of parochial identities by political leaders of their selfish interests (Nasong'o, 2000) however, he has not explained on electoral management issues affected elections in the post-election violence. He further argues that Moi's regime turned to ethnic sentiment and sensitised the Kalenjin and other so-called minority groups to the prospect of losing their privileged status under him, arguing that as Kenyatta's Vice President for twelve years, he remained steadfast in his loyalty to, and in support of Kenyatta yet now Kikuyus were out to toss him out of office under the guise of political pluralism. The common Kalenjin person was thus made to understand that the idea of multi-partyism was a mere conspiracy by other communities to wrest the presidency from one of their own, and hence deny them accessibility to the 'national cake' 'rather than an opportunity for healthy political competition intended to ensure accountability and transparency in the governing process.

Electoral management practices were organised in a manner that was not favourable for a fair democracy. In the 1992 elections, the state controlled the running of electoral management by appointing their persons to be in charge of senior positions and controlled by the provincial administration. In the 1997 elections, IPPG was established to create fairness among political parties but it turned out to be toothless. The subsequent elections of 2007, which were alleged to

be run by an independent electoral commission, still failed to bring stability to the nation but rather brought in violence after the elections. All these erupted because of the continued build-up of tensions due to selfish interests. Elections are meant to bring democracy and stability in the most developed world but in Kenya, elections have been an eruption for violence as witnessed in most elections in Kenya since Kenya lacks political policy. However, if elections are practised genuinely without other motives, it serves societies well.

Changing the regime rather than the political liberation perse appeared to be the most pressing concern in 1997. It was later captured neatly in the slogan ‘Moi must go! Moi must go!’ The wish to get rid of the regime was what brought together the diverse ethnic groups that congregated around the Forum of Restoration for Democracy (FORD) upon its founding (Oyugi, 1997). The same was reflected in the 2002 General Elections. Moi was no longer in the presidential race, having served his full term as provided for in the 1992 constitutional amendment. He was, therefore, not enthusiastic to use of state machinery, resources, and other means including ethnic antagonism to secure victory for the *Kenya African National Union* (KANU) regime and his successor Uhuru Kenyatta. The opposition parties had learned a bitter lesson from their disunity and defeat in the 1992 and 1997 elections. They therefore resolved to forge unity through a multi-ethnic party coalition, National Rainbow Coalition (NARC) (Chelang’a, *et al.*, 2009).

As early as 1992, Kenyans had called for the unity of the opposition as the most effective strategy for removing KANU from power (Wanyande, 2006). Since a majority of Kenyan citizens needed change and new leadership, it became easier to come together under the NARC coalition headed by Mwai Kibaki. In addition, before the 2002 elections, the leading politicians from several major ethnic communities had signed a Memorandum of Understanding (MoU) by which they agreed to form a coalition government if they won the elections, and equally share cabinet positions between the two major political groupings in the coalition, namely the National Alliance Party of

Kenya (NAK) and the Liberal Democratic Party (LDP). It meant that the interethnic stakes were not high because the major tribes such as the Kikuyus, Luhyas, and Luos, had fielded candidates who were deemed to be capable of taking care of their interests during this transition period.

This is the arrangement that gave birth to the National Rainbow Coalition (NARC) which won the 2002 General elections. The MoU also provided that the President, the Vice President, second and third Deputy Prime Ministers would come from NAK, while the LDP was to get the positions of Vice President, the Prime Minister, the first Deputy Prime Minister, and Senior-coordinating Minister. This power-sharing arrangement, based on ethnic-regional representation, generated considerable excitement and interest among the electorate as it gave each of the major ethnic groups a stake in any future Kenya government (Wanyande, 2006), therefore consolidating votes from multi- believed ethnic grouping became an easy endeavour.

Despite this, violence erupted later. The 2007 post-election violence could have erupted because of the state capture in control of the electoral management body. The incumbent was in control of the state and it could be easy to use the state machinery to manipulate elections to their favour. This has been a circle in Kenya's elections after the advent of multi-party politics. When the president is in power, it is not easy for a new president to take over power. My view is that it becomes easier for another president to take over after the incumbent has exhausted his terms of office. This has been witnessed in the past elections. However, if true democracy can be allowed to take root, Kenya will in the future become a free society where democracy is practiced freely.

The post-election violence of the 2007 General Election shocked most people within and without; interethnic tensions had been building since independence following deeply rooted historical factors on land and political issues. Alongside land issues, the conflict in the region is also clearly fuelled by grievances relating to economic and rising political discrepancies. Kenya is a highly unequal society in terms of regional economic disparities reflecting interethnic relations



cleavages. Patterns of investment both public and private and land ownership and control during the pre-colonial period and after independence have benefited communities that hold the presidency at the expense of other groups and regions (Wanyande, 2006) thus contributing to interethnic relations.

However, these economic inequalities did not pose a significant threat to stability until after the NARC victory when the composition of Kibaki's cabinet and senior civil service positions shifted and Kikuyu economic supremacy was matched with political dominance with losses for particularly the Kalenjin and the Luo elite. This is evidenced in Ngunyi's (2009), report that the percentage of Luo posts in cabinet fell from 16% in 2003/2004 to 3.1%; likewise, the number of Kalenjin permanent secretaries fell by over half from 15% to 6.2%. When an attempt to correct these imbalances through the democratic process was thwarted, it facilitated spontaneous anger at perceived presidential election rigging of the 2007 General Elections which was followed by ethnically motivated attacks destroying properties and loss of lives. This was indirectly related to the ECK because it created tension among the inter-ethnic relations resulting in eruption during elections. Suspicion and hatred piled up before 2007 which made those outside the government to be very vigilant and ready for any opportunity to spark violence.

Nelson (2001) notes that for free, fair, and equitable elections to be achieved certain factors must be put in place which include: an equitable and fair electoral framework; a professional neutral, and transparent election administration; a generally accepted code of ethical behavior in political and press freedom; accountability of all participants; integrity safeguard mechanism and the enforcement of the electoral laws among other relevant laws.

Nelson's (2001) view is not enough because issues such as credible international community, election monitors, and observers should have a role to play. The public should also be sensitized about the importance of participating fully in a fair and free environment and more importantly

the goodwill from political leaders to enable the smooth running of elections. It is from this context that this study sought to find out why there has been a flare-up of electoral violence on interethnic relations in the 2007 post-election violence in Uasin Gishu and Trans-Nzoia Counties. Despite a series of measures put in place to improve the electoral process such as the joint appointment of commissioners by parties involved in the election through the Inter-Parliamentary Party Group (IPPG), financing of ECK, and even prior conduct of a referendum exercise in 2005 with a high degree of success, but the problems still exist hence the relationships of interethnic relations will continuously be affected.

## **1.2 Statement of the Problem**

Interethnic violence has marked the social and political relations among many communities living in the cosmopolitan counties of Trans Nzoia and Uasin Gishu, especially at the height of the electioneering period which takes place every five years. Whereas the violence has been attributed to certain common factors such as land ownership, ethnic animosity, hatred, imbalance in the distribution of elective positions, unhealthy competition, the electoral management practices in Kenya have scantily been acknowledged as principal contributors to the interethnic violence.

Over time, attempts have been made to reform the electoral management process since the advent of electioneering in Kenya. The reforms culminated in their inclusion in the 2010 Constitution of Kenya which provides an enabling legal framework for electoral management in the country. The framework enabled the establishment of the Independent Electoral Management (IEBC), the enactment of the election act 2011, election regulations 2012, 2017, as well as political party acts 2011 and 2017. These steps have been made to help electoral management as well as political parties (candidates) to partake elections in a free, fair and transparent manner. The subsequent electoral management processes between 2013 and 2022 have manifested political, technological and legal successes and challenges that have contributed to the growth of the democratic process

in the country. The direct and indirect violent spectre of interethnic relations, however, remains unresolved especially in cosmopolitan multiethnic counties in the country. There exist scarce studies on the role of electoral Management System on inter-ethnic relations.

This study was therefore carried out to find out the implications of electoral management practices on interethnic relations in Uasin Gishu and TransNzoia counties as epicenters of interethnic violence in the aftermath of 2007 General Elections.

### **1.3 Purpose of the Study**

The purpose of this study was to examine the implications of electoral management on interethnic relations in Uasin Gishu and Trans-Nzoia Counties in Kenya.

### **1.4 Specific Objectives**

1. To examine the pattern of electoral management practices that influenced interethnic relations in Uasin Gishu and Trans Nzoia Counties;
2. To critically assess the contribution of the structural context of electoral management in the 2007 General election on interethnic relations in Uasin Gishu and Trans Nzoia;
3. To examine the challenges of electoral management in the 2007 General Election on interethnic relations in Uasin Gishu and Trans Nzoia Counties.
4. To evaluate the effectiveness of the mitigation strategies adopted in the management processes to improve interethnic relations in Uasin Gishu and Trans-Nzoia Counties.

### **1.5 Research Questions**

1. How was the pattern of electoral management practices that influenced interethnic relations in Uasin Gishu and Trans Nzoia Counties?

2. How did the structural context of electoral management in the 2007 General Election contribute to interethnic relations in Uasin Gishu and Trans Nzoia?
3. What were the challenges of electoral management on interethnic relations in Uasin Gishu and Trans Nzoia Counties?
4. How was the effectiveness of the mitigation strategies adopted in the management processes to improve interethnic relations in the Uasin Gishu and Trans-Nzoia Counties?

### **1.6 Scope of the Study**

The study's focus was on the implications of electoral management on interethnic relations during and after the 2007 General Elections in Uasin Gishu and Trans-Nzoia Counties. First, the violence witnessed after the 2007 General Election was very intense leading to great loss of life and property. Second, Uasin Gishu and Trans Nzoia are cosmopolitan counties comprising ethnicities from across the county. They thus witnessed unprecedented violence and instability.

### **1.7 Significance of the Study**

The study can be used in understanding the pattern of electoral violence since independence, at the advent of a multiparty era, and especially the magnitude and intensity of general election violence in 2007. It provides information on occurrences and frequency of electoral management practices in Kenya, thus enabling the government and policymakers to come up with measures of preventing electoral malpractices.

This study brings out useful research findings in light of better electoral management that would generate an atmosphere of good governance and cohesion. The findings contribute to re-designing the policy framework and strategies of the electoral process in a bid to avoid future occurrences

of the violence witnessed in the past. In addition, the research informs about processes that must be put in place to ensure that elections run in a fair and non-violent way.

To the academicians, the study finding will enrich the existing knowledge in the academic fraternity. Findings of this study will add to existing reference materials for future researchers, readers, and other interested parties.

### **1.8 Limitations to the Study**

At times participants became suspicious, and others presented what they believed to be the desired rather than the real answers. To mitigate suspicion from the respondents, the researcher informed them that the study was meant only for educational purposes.

During the collection of data, several problems were experienced: the sensitivity of election violence instilled fear due to investigations that were going on to find perpetrators of election violence. Participants were not willing to fill out the questionnaires and some interviewees were reluctant to be interviewed. Others gave scanty information especially on issues concerning their areas because they thought it was a scheme to be used for investigation or to victimise them while other informants declined to give appointments. To address the limitations, the researcher assured the participants of confidentiality and anonymity.

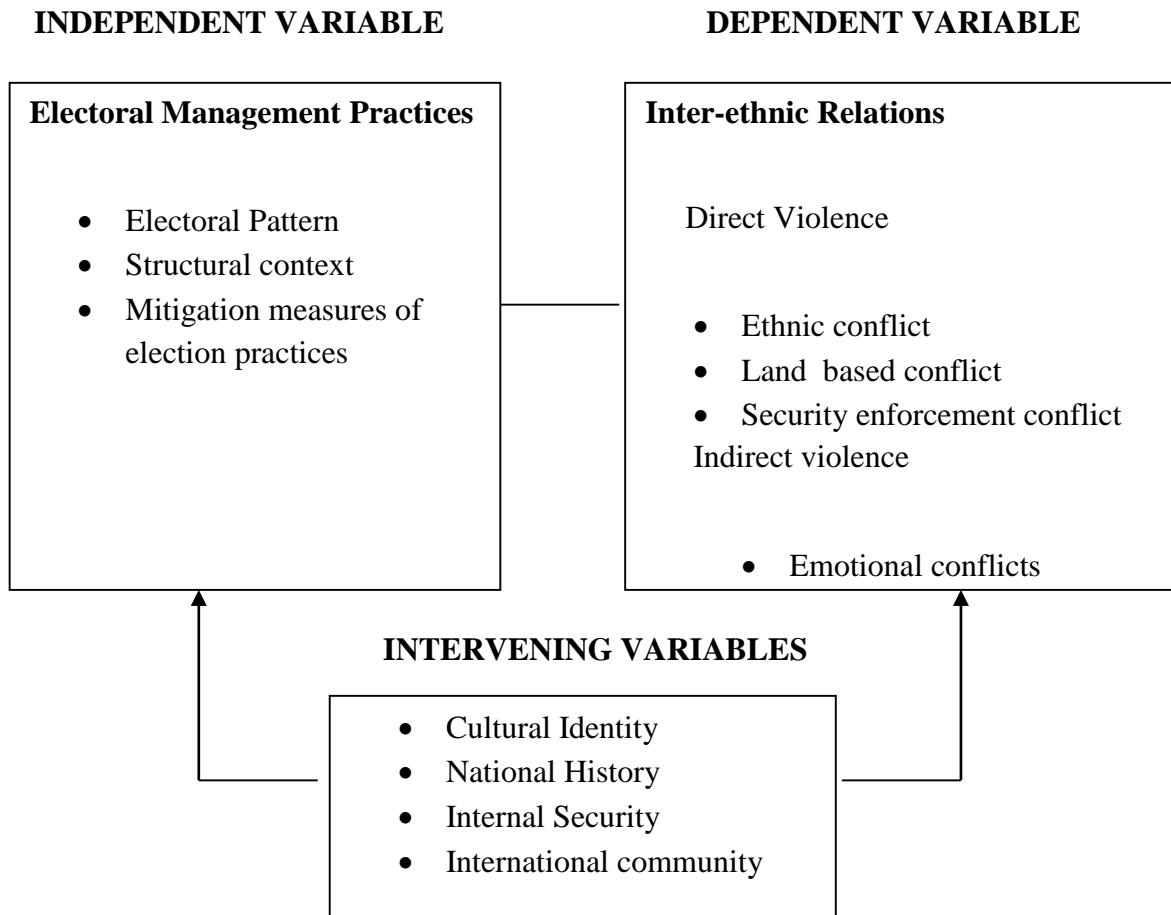
The language was also a problem, especially in filling out questionnaires due to high illiteracy rate in the area. To address such limitations on questionnaires, the researcher had to identify the literate participants

The study was hampered by issues such as inaccessible areas due to poor road networks as a result of heavy rains. Most parts that were affected were the remote areas in Trans Nzoia and Uasin Giishu. This problem was alleviated by the use of the motorcycle (*boda boda*) which has become

a common means of transport in rural areas today. In impassable areas at times, the researcher and the assistant were forced to go on foot.

### 1.9 Conceptual Framework

The following diagram presents, independent, dependent and intervening variables of the study.



**Figure 1.1: Conceptual Framework**

*Source: Researcher (2015)*

## **1.10 Theoretical Framework**

Two theories were used in this study. These were; conflict theory and Relative deprivation and resource mobilisation theories

### **1.10.1 Conflict theory**

The conflict theory by Johann Galtung (1991) was used in this study to address structural violence. Structuralist approaches to the study of violence emphasise the influence of objective conditions in the generation of conflict which results because of either direct or indirect violence. The indirect violence will be caused by emotional conflicts and tension-build-ups which Galtung (1991) refers to it as “social injustice.” (Kalpata, 2020). This concept of structural violence/conflict is derived from reconceptualising the dichotomy between peace and war. Curle (1971) who is an exponent of structural violence critiqued the dichotomising between peace and war and came up with a third situation that does not fit the classical dichotomy. In his view, while societies can be in conditions of peace, or of war, they can also equally be in neither situation which in one way or another contributes to ‘social injustice’ in the structural setup.

In unpeaceful societies, there is little, or no, physical violence in evidence, yet there is no peace. Peace lacks because the relations in those societies are organised in such a way that the potential for the development of some (significant) numbers of the society is impeded. This potential for development is impeded by factors that may be economic, social, or psychological. These factors prevail in a society when tensions are build-ups over issues affecting societies. This normally is not immediate but underlying causes and they become a recipe in case of an immediate cause. The notion of structural conflict has influenced the study of conflict and introduced new complexities and insights into conflict management (Galtung, 1991). Galtung defines structural violence as existing in those conditions in which human beings are unable to realise their full

potential: where their somatic and mental realisations are below their potential realisations. According to Kalpata (2020), structural violence is built into the social structure. Societies are made up of systems. These systems include laws and institutions established for enforcing them, economic systems such as the market, social inter-relationships, religious institutions, and their workings, as well as in many cases, institutions of the army.

These systems interact with each other to create complex relationships of power. We can measure power in terms of access to resources, decision-making, and opportunities. The structures of society may be such that they result in the marginalisation of certain groups, or they discriminate against them. This result in the infringement of their rights and makes the citizens not realise their full potential on what is expected in society. Such violence is not always intended; it is a product of the existing structures of a society which potentially affects interethnic relations.

In conditions of structural violence, the actor commits its direct (or personal) violence, but the influences against people's realisation of their full potential are the basis of structural or indirect violence. Structural conflict is nested in structural violence and intends to reduce and even remove violence which can even be extended to a third party. The contention is about the stage at which violent conflict becomes an issue.

At another level, structural violence can, and does, lead to behavioural violence (Galtung, 1991). If structural violence is not attended to, and the conflict-generating structure continues, life in that structure can become so intolerable that interethnic relations are the only reasonable way out. If the parties in a structural conflict at some point find the structure impossible to bear, they will resort to physical violence to overthrow that structure.

Galtung (1991) suggests that weaknesses are evidenced by not explaining the processes and conditions involved in the transformation of structural violence into direct forms of violence. It



also argued that his work is poorly outdated and poorly theorised, however, his work seeks moral ends: the emancipation of humanity from false claims of “universality”. This is a situation when one group takes power and seeks to justify it because it represents “freedom for all; the reality is freedom for them”. Using Universalist rhetoric to disguise specific domination is common means of controlling discourse and political debate. This mode of “unmasking the most attractive elements of conflict theory is improving the structures within any given society.

Therefore, interethnic violence in the cosmopolitan Trans Nzoia and Uasin Gishu can be explained from the standpoint of the tenets of structural violence as advanced by Galtung (1991). Being multi-ethnic counties, their ethnic composition was enabled by the availability of land for sale. It attracted buyers from different ethnic groups, a situation that did not discriminate against potential buyers. Over time, the buyers established profitable ventures and exhibited traits of being well-off. Coupled with this, the apparent grievances leading to hate or envy provide the avenues for the need to displace the buyers from their “ancestral lands”. To the sellers, the politics underpinning a General Election provides a vantage to execute their socially accepted plans and strategies. This materialized in 1992, 1997, and 2007 and especially with the introduction of competitive multi-party politics. Structural violence thus manifested underlying social and psychological contradictions experienced by the residents occupied by ethnic communities. To this extent, structural violence in the two counties transcends issues as is commonly portrayed.

### **1.10.2 Relative deprivation and resource mobilisation theories**

This study also employed the relative deprivation and resource mobilisation theories advanced by Davis and Gurr (1998) to explain the prevalence of political conflicts. According to the theory of relative deprivation, a regime’s inability to provide economic and political goods is viewed as a source of relative deprivation within a population (Mogire, 2000). According to Mwagiru (2000), relative deprivation is activated by the reference group which a person compares oneself, and

one's fortunes, with. It is the reference groups that change and condition people's perceptions of what to expect and what to believe they are entitled to (Mwagiru, 2000).

Relative deprivation is a disagreement between deserved and actual enjoyment of goods or conditions of life and more generally discontent with government performance, ethnic dominance, urbanisation, political authoritarianism, and a low level of economic development. The likelihood that relative deprivation will result in electoral management practices' effect on election violence is conceived to be great if the environment is conducive to enabling manipulations to take place during elections. This denies the electorate a chance to participate fairly in electing their representatives but rather, it is a ploy used to legitimise the continuous stay in power by the government.

These theories depict the function of relative deprivation and resource mobilisation in explaining political conflict as well as provide a certain understanding of the mechanism of how the factors in this study are conceived to generate violence (Auvinen, 1989). The unequal distribution of resources and ethnic dominance in government positions in the early regimes under Kenyatta, Moi, and even the recent Kibaki, Uhuru period is alleged to have been dominated by the same scenarios which contribute to interethnic hatred leading to election violence directly or indirectly.

Theoretical literature scantily addresses the tenets that underpin electoral management however; models have been developed to address the practice of electoral management in different democracies. The models by Catt *et al*, (2014) inform the study as follows:

### **1.10.3 Models of electoral management**

The Independent Model of electoral management is used in countries where elections are organized and managed by an EMB that is institutionally independent and autonomous from the executive branch of government; its members are outside the executive. Under the Independent

Model, the EMB has and manages its budget, and is not accountable to a government ministry or department. It may be accountable to the legislature, the judiciary, or the head of state. EMBs under this model may enjoy varying degrees of financial autonomy and accountability, as well as varying levels of performance accountability. Many new and emerging democracies have chosen this model, including Armenia, Bosnia and Herzegovina, Burkina Faso, Canada, Costa Rica, Estonia, Georgia, India, Indonesia, Liberia, Mauritius, Nigeria, Poland, South Africa, Thailand, and Uruguay.

In some countries, two bodies are established to manage elections, both of which are independent of the executive and can be considered independent EMBs. One of these bodies is likely to have responsibility for policy decisions relating to the electoral process, and the other to be responsible for conducting and implementing the electoral process. There may be provisions to insulate the implementation of EMB from interference by the policy EMB in staffing and operational matters. Examples of this ‘double-independent’ framework under the Independent Model include Jamaica and Romania.

In countries with the Governmental Model of electoral management, elections are organized and managed by the executive branch through a ministry (such as the Ministry of the Interior) and/or through local authorities. Where EMBs under this model exist at the national level, they are led by a minister or civil servant and are answerable to a cabinet minister. With very few exceptions, they have no ‘members. Their budget falls within a government ministry and/or under local authorities.

Countries that use this model include Denmark, Singapore, Switzerland, the UK (for elections but not referendums), and the United States. In Sweden, Switzerland, the UK, and the United States, elections are implemented by local authorities. In Sweden and Switzerland, the central EMB assumes a policy-coordinating role

The Mixed Model of electoral management usually involves two component EMBs and a dual structure: (1) a policy, monitoring, or supervisory EMB that is independent of the executive branch (like an EMB under the Independent Model) and (2) an implementation EMB located within a department of state and/or local government (like an EMB under the Governmental Model). Under the Mixed Model, elections are organized by the component governmental EMB, with some level of oversight provided by the component independent EMB. The Mixed Model is used in France, Japan, Spain, and many former French colonies, especially in West Africa, for example, Mali and Senegal.

The powers, functions, and strength of the component independent EMB to the component governmental EMB vary in different examples of the Mixed Model, and the classification of a particular country as using this model is sometimes not very clear. In the past, the component-independent EMB was sometimes little more than a formalized observation operation, although this version is dying out, having been abandoned, for example, in Senegal. In other cases, the component independent EMB supervises and verifies the implementation of electoral events by the component governmental EMB, and tabulates and transmits results, as in Congo (Brazzaville). In some Francophone countries, the Constitutional Council is engaged in the tabulation and declaration of results and can be considered a component independent EMB within the Mixed Model. In Chad, this applies to referendums only, and not to elections. In Mali, where elections are organized by the Ministry of Territorial Administration, both the Independent National Electoral Commission and the Constitutional Court undertake their tabulation of results; the country thus has three component EMBs (one governmental and two independent).

The relationship between the component EMBs in a Mixed Model is not always clearly defined in legislation or practice, and friction can result. In the 1999 elections in Guinea (which used the Mixed Model at that time), the majority and opposition representatives in the component

independent EMB had conflicting approaches to its role in supervising and verifying the elections; thus, its effectiveness was heavily disputed.

Among the models by Catt *et al*, (2014) independent model is the most applicable in Kenya though there are gaps that are applied in the government model. The electoral management body is organized and managed by an EMB that is institutionally independent and autonomous from the executive branch of government; its members are outside the executive. Under the Independent Model, the EMB has and manages its budget, and is not accountable to a government ministry or department but the Kenyan case is different because the government allocates the EMB budget and it's under government scrutiny. It may also be accountable to the legislature, the judiciary, or the head of state.

EMBs under this model in Kenya may not enjoy varying degrees of financial autonomy and accountability, as well as varying levels of performance accountability because the government provides checks and balances on the management of EMBs, therefore Kenya could be said to follow a hybrid of independent and government model despite of its independence. This hybrid type of model creates room for interethnic electoral violence because the state gets the upper hand to interfere in its functioning.

Kenya has adopted an independent model which Catt *et al*,(2014) as put as purely independent from the executive branch of government. This is evidenced during the inauguration ceremony of the fifth president of Kenya Dr. William Samoei Ruto when he said that his government will not interfere with independent institutions (PSCU, 2022). This is in line with the constitution of Kenya which states that “In the exercise of judicial authority as constituted by Article 161, shall be subject only to this constitution and the law and shall not be subject to control or direction by any person or authority”. This will enhance democratic development which will contribute to the smooth running of the electoral process.

## **1.11 Operational Definition of Terms**

**Coalition Government-** An arrangement of power-sharing between two Kenyan political parties, PNU (headed by President Kibaki) and ODM (headed by Raila Odinga), leading to what Kenyans see as a ‘hybrid’ type of government.

**Counties-** These are 47 geographical demarcations based on population density and demographic trends representing administrative and political units in Kenya.

**District Commissioner-** heads a district within a province in Kenya. After the promulgation of the 2010 constitution, the district commissioner was replaced by the county commissioner who heads the county.

**Election Management-** These are issues related to the structure and mandate of the electoral management body of Kenya.

**Elections:** A device used by the electorates to fill political offices through competitive means which if done free and fairly represents true democracy.

**Electoral Management Body-** A professional authority formed by the relevant legal body responsible for organising and supervising elections as per the 2010 Kenyan constitution.

**Electoral Management Practices-** It entails a political environment that includes the constitutional and legal framework that governs election management as well as an administrative environment that includes rules and regulations governing the management and conduct of elections.

**Electoral Management-Related Violence-** This is an activity motivated by an attempt to affect the results of the elections either by manipulating the electoral procedures or participation by the electoral body.

**Electoral Systems-** An electoral system refers to rules that control the conduct of elections.

**Electoral Violence-** These are types of organised acts or threats either physical, psychological, or structural that aim at intimidating, harming, or blackmailing a political participant pre-election, during, and post-elections to determine, delay, or otherwise influence an electoral process.

**Electoral/Voters-**The registered voters (citizens) who meet the qualification to participate in the election process. One must be a Kenyan citizen and above 18 years of age to have an election card.

**Ethnic Cleansing-** It is an unintentional policy designed by one ethnic group to get rid of another ethnic group by all means in specified geographical areas.

**Ethnic Communities-** Based on this study, these are people with diverse cultures living in a cosmopolitan area.

**General Elections-** Elections held after every five years. These include presidential elections, parliamentary and county assembly elections.

**Gerrymandering-** It is a situation where manipulations are used to take advantage of the other party such as dividing the constituencies of voting areas to benefit a party at the expense of another party.

**Independent Electoral Boundary Commission-** It is an independent body of officials appointed through competitive interviews to conduct elections in Kenya.

**Interethnic Relations-** Interethnic relations may be an issue in a multi-ethnic state or between a majority and minority ethnic groups within a single state which can be positive or negative relations. In this study, interethnic relations refer to relationships that accrue as a result of

malpractices from electoral management bodies during elections leading to ethnic hatred among communities living within Uasin Gishu and Trans Nzoia Counties.

***Nyumba Kumi Initiative***- This is an initiative that was adopted from Tanzania. It involves creating a good rapport between the citizens and law enforcers to fight insecurity which has become rampant in Kenya society.

***Operation Rudi Nyumbani Initiative***-An initiative undertaken by the Kenyan government from 2008 to 2016 to address the plight of internally displaced persons (IDPs) after the 2007/2008 post-election violence (PEV)

***Pattern***-It is accumulated behaviour/action by electoral officials leading to the 2007 election period.

***Practices***- **This** represents a situation where what takes place on the ground is not what is expected and vice versa.

***Relative Deprivation***- perception of others and our sense of injustice by comparison.

***Victims***: Victims in this study refer to those people who were affected directly and indirectly during the general election violence of 2007.

***Violence***: This is the unjust use of force or power against people's rights which may include acts or threats of coercion, intimidation, or physical harm aimed at derailing an electoral process.



## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.0 Introduction**

This chapter reviews the literature on the implication of electoral management practices on interethnic relations in Uasin Gishu and Trans Nzoia Counties. It presents literature on both the dependent and independent variables, thus: the pattern of electoral management practices that influenced interethnic violence, the contribution of the structural context of electoral management on interethnic relations, the effectiveness of the mitigation strategies adopted in the management of interethnic relations and the challenges of electoral management on interethnic relations in Uasin Gishu and Trans Nzoia Counties.

#### **2.1 Pattern of Electoral Management Practices on Interethnic Relations.**

##### **2.1.1 Electoral management body**

Election management body has procedures to follow in conducting elections in different countries globally. According to Hellen Catt *et al*, (2014), the complexity and specialist skills necessary for electoral management require that an institution or institutions be responsible for electoral activities. Such bodies have a variety of shapes and sizes, with a wide range of titles to match, such as the Election Commission, Department of Elections, Electoral Council, Election Unit, or Electoral Board. The term electoral management body (EMB) has been coined to refer to the body or bodies responsible for electoral management, regardless of the wider institutional framework in place.

An EMB is an organization or body that has the sole purpose of and is legally responsible for, managing some or all of the elements that are essential for the conduct of elections and direct

democracy instruments such as referendums, citizens' initiatives and recall votes if those are part of the legal framework. These essential (or core) elements include: determining who is eligible to vote; receiving and validating the nominations of electoral participants (for elections, political parties and/or candidates); conducting polling; counting the votes; and tabulating the votes. If these essential elements are allocated to various bodies, then all bodies that share these responsibilities can be considered EMBs.

An EMB may be a stand-alone institution, or a distinct management unit within a larger institution that may also have non-electoral tasks. (IDEA, (2006). In addition to these essential elements, an EMB may undertake other tasks that assist in the conduct of elections and direct democracy instruments, such as voter registration, boundary delimitation, voter education and information, media monitoring and electoral dispute resolution. However, a body that has no electoral responsibilities other than, for example, boundary delimitation (such as a boundary delimitation commission), electoral dispute resolution (such as an electoral court), election media monitoring (such as a media monitoring commission), or the conduct of voter education and information (such as a civic education commission) is not considered an EMB because it is not managing any of the essential elements identified above. Similarly, a national population or statistics bureau that produces electoral registers as part of the general process of population registration is not considered to be an EMB. (Catt *et al*, 2014). An inclusive meaning has been given by Tobby (2020), that electoral management has the organizations; networks, resources, micro anthropological working practices and instruments involved in implementing elections. These different organizations contribute to the wholism of the electoral process which impacts interethnic relations.

Different EMBs may be established for different electoral processes. In Mexico and Poland, the EMBs are responsible for both presidential and parliamentary elections; in Australia, the national

EMB deals with national-level elections, while state-level elections are the responsibility of separate state-level EMBs. In the United Kingdom (UK), the arrangements for the conduct of elections and referendums are separate.

Some bodies that are not engaged in any of the essential elements of elections may nonetheless be popularly regarded as EMBs. The US Federal Election Commission (FEC) defines its mission as ‘administering and enforcing federal campaign finance laws’. However, such institutions do not qualify as EMBs under the definition above.

In addition to the division of functional responsibility for different elements of the electoral process, electoral responsibilities may be divided between bodies at different levels. For example, some elements of the conduct of elections may be managed by a national-level electoral commission, a ministry (such as the Ministry of the Interior) or a national government agency, while others are implemented by local-level commissions, regional branches of government departments or local authorities (as in Spain). The term EMB may also apply to a national electoral commission that co-manages elections together with local authorities, such as the Swedish Election Authority, which coordinates ballot paper printing, the distribution of seats and the announcement of results at the national level. (Catt *et al*, 2014).

In East Africa, models of EMBs have been classified based on five models: an election office within the government, an election office within a government ministry but supervised by a judicial body, an independent election commission composed of experts and directly accountable to parliament, a multi-party election commission composed of representatives of the political parties, and a non-partisan election commission of distinguished individuals from a list proposed by the president and legislature, reduced by a veto of the political parties, and selected by a group of judges for a ten-year term.(Ntaganda,et al, 2016). In Kenya, the electoral commission resides in the Independent and Boundaries Commission Act. An act of parliament to make provision for

the appointment and effective operation of the independent electoral and boundaries commission established by Article 88 of the constitution of Kenya (GOK,2020). Thus, it falls under an independent election commission composed of experts and directly accountable to parliament but amendments can be made by the legislature depending on the emerging situations.

Regardless of which model is used, all EMBs need to follow some guiding principles, including independence of decision-making and action, impartiality, integrity, transparency, efficiency, professionalism and service-mindedness (Catt *al et*,2014). However, Elklit and Reynolds (2002) are of the view that the categorization of these models is based on several attributes such as institutional arrangements, implementation, formal accountability, powers, composition, terms of office and budget. These principles are sometimes more fully achieved under the Independent Model and effective attributes towards the attainment of a proper and efficient electoral management body.

### **2.1.2 Electoral management on election violence in developing countries**

However, despite all processes involved in the electoral body, there are several emerging practices that different countries have practiced based on their existing political institutions and constitutions which have imparted on interethnic relations, especially in the developing states. The electoral process, the world over, has in one way or the other experienced electoral management-related violence which takes place in different stages of the elections process.

According to Carter Center (2016), building on the work of the European Union (EU), the United Nations Development Programme (UNDP), IDEA, and many others; the election is recognised as much more than just Election Day. It is a cyclical process that unfolds over months before and after voting occurs it is identified by the following parts of an election process: the legal framework, the electoral system and boundary delimitation, election management, voter

registration, voter education, candidacy and campaigning and media coverage, voting operations, vote counting and voter dispute resolution (Carter, 2016)

According to Atuobi (2008), election violence is prevalent in Asian countries such as India, Pakistan, the Philippines and Malaysia. It is more intense especially in developing countries of Asia and South America as opposed to the developed countries. In countries like the United States of America, Britain, and the Scandinavian States, electoral violence is minimal, that is, if it ever exists. In the Philippines, for example, 75 people were killed before the elections in 2007 and 80 more were wounded in election-related violence (Atuobi, 2008).

In Haiti, election management conflicts affected the formation of the Haiti government. Political violence continued throughout President Aristide's second term in office, forcing him to go into exile in 2004, when the opposition refused to accept the results. An interim civilian government was established which oversaw elections in 2006 in which Préval, a presidential candidate, after a dispute over vote counting, was eventually elected to a new term (Maureen, 2013), further elaborated those subsequent elections held under President Aristide and Préval, both of whom served two non-consecutive terms, was marred by alleged irregularities, low voter turnout and opposition boycotts.

With the emergence of multiparty politics in Sub-Sahara Africa in the early 1990s, electoral competition for state power has become a tradition and many countries have since held more than three consecutive elections. Elections in most African countries are characterised by uncertainties, due to the possibility of the outbreak of Election violence. What this means in practice is that violence is widespread and can take place for several reasons, including but not exclusively limited to general elections. According to Carlos (2007), elections management in Africa portends political instability in the African States. Generally, the stakes are high depending on the state of stability prior or during the time of elections. The author's view contradicts what Eldridge,

Mimmi, Nystrom, & Utas (2012) have emphasised that in Africa, election violence is always determined by the political culture in place. Carlos' (2007) views have generalised African states instead of being specific to particular countries. In most cases, some countries go to elections peacefully but the aftermath of it generates post-election violence as happened in Kenya in 2007 post-election violence. Many new democracies with strong authoritarian legacies or deep ethnic cleavages common in many African countries, find it difficult to manage political opposition (Mansfield & Synder, 2010).

How these tensions are handled can make the difference between an election that proceeds peacefully and one that degenerates into violence. Generally, most elections are not intensely violent. Although the media focused on the horrific violence that followed the elections in Kenya and Zimbabwe, studies indicate that violence in Africa's elections affects between 19 and 25 percent of elections. In most countries where electoral violence is a risk, it tends to recur and may consequently lead to an unfavourable view of democratization. In the case of the Republic of Congo, one may argue that the electoral violence laid the foundation for a civil war (Bekoe, 2009).

In Kenya, the 2017 General Elections can attest to the view of Mansfield and Synder (2010) on the nullification of results and the repeat of elections in the forthcoming elections. Will it be difficult or easy to manage opposition? There are great differences in patterns across 54 African countries (Carlos, 2007). There are significant electoral management practices within the same country, with some turning violent and some not because of the prevailing political system or the nature of political culture in a country - such countries include Uganda, Zimbabwe and Nigeria. The author could have mentioned that in such occasions, the period of the election management situations matters. In some cases, elections in a country may experience little electoral management hitches as opposed to the authors' view.

On the other hand, Ghana, South Africa and Namibia are some of the countries which have experienced relatively less election violence (Eldridge, 2012). There are cases where countries have experienced no election violence due to the existing political system such as a monarchy system of governance. These systems are found in Swaziland and some countries in the Middle East. This system of governance does not apply democratic principles and is not common in African countries. Change of leadership is purely based on hereditary criteria. Countries which have embraced democracy are usually competitive since competition takes centre stage.

Violent elections occurred in countries such as Cote d'Ivoire, Nigeria and Zimbabwe during the 2003 federal and state elections in Nigeria, at least 100 people lost lives and more were injured (HRW, 2008). People died and property was destroyed but the intensity and magnitude vary from one country to another. Further, low-intensity violence has been elaborated by Eldridge Mimmi, Nystrom, & Utas, 2012) when they advanced the idea of a more common scenario of low-intensity violence, widespread, coercive intimidation of both candidates and voters which includes harassment, imprisonment, and assassinations; violent riots and clashes between supporters or security elements of the political parties; attacks on various local party headquarters and party symbols. Most elections in Africa experience such levels of violence at a low rate and this may reflect the scenario in Kenya during the 2007 General Elections which had a diverse impact on interethnic relations.

Countries that have displayed such characteristics as indicated by Eldridge (2012) during elections include Cameroon, Liberia, DRC, Equatorial Guinea, Madagascar, Sierra Leone, Senegal, and Uganda. During the 2007 run-off elections in Sierra Leone, violence erupted following a clash between the supporters of the ruling Sierra Leone People's Party (SLPP) and the opposition All People's Congress (ACP) where violent attacks were also reported against the

supporters of the SLPP when the ACP leader was sworn in as the new president (Eldridge *et al.*, 2012).

In reference to the scenarios of election violence and peaceful elections, Table 2.1 highlights the outcome of General Elections in African countries from January to August 2012. These are duplications of what has been taking place since Kenya's independence in 1963 to date. The incidents of election violence are very high that even an election considered to be free and fair may not have been free of violence before, during, or after elections.

In Ghana, stability has been a feature of her politics as evidenced in the elections held in 1992, 1996, 2000, and 2004. In Ghana, there was a relatively democratic and peaceful transfer of power, despite very narrow margins of victory (Thomson, 2010). This is a unique case with the election's opinion polls scenario in Kenya as demonstrated by Oucho (2015). In the opinion polls for presidential candidates in Kenya's elections where opinion polls showed close margins between the contesting president Mwai Kibaki and Hon.Raila Odinga in the run-up to the 2007 General Elections, the transfer of power was not peaceful culminating in interethnic relations resulting from the 2007 post-election violence.



**Table 2.1: Outcomes of General Elections in Africa, January-August 2012**

<b>Date</b>	<b>Country</b>	<b>Type of Election</b>	<b>Outcome</b>
<b>Feb 26 &amp; June 17</b>	Senegal	Presidential & Parliamentary	Peaceful change of government
<b>March 18</b>	Guinea-Bissau	Presidential	Coup d'etat
<b>March 29</b>	Gambia	Legislative	Violence free, but opposition was heavily intimidated-boycotted elections
<b>March 31</b>	Mauritania	National Assembly	Postponed indefinitely
<b>April 29</b>	Mali	Presidential & Referendum	Coup d'etat
<b>May 26</b>	Lesotho	General	Peaceful change of government
<b>June</b>	Egypt	Presidential	Peaceful elections
<b>July 07</b>	Libya	Constituent Assembly	Peaceful Elections
<b>July</b>	DRC	Legislative(senate)	Postponed indefinitely
<b>July 15</b>	Congo(Brazzaville)	Legislative	Peaceful elections with small-scale post-election protests
<b>August 28</b>	Somalia	Presidential	Peaceful elections-no large-scale mobilisation of voters conducted
<b>August 13</b>	Angola	National Assembly	Peaceful elections, with minor clashes between party militants

*Source: EISA & IFES Calenders for 2012*

Ghana has been considered by the international community as a unique example of democracy and peace on the African continent since 1996. Nevertheless, the country has come from a military regime like many of its democratic African counterparts and is still prone to some of the problems faced by its more turbulent neighbours (Utas, 2012). This scenario informs that if Ghana does not

put in place adequate mechanisms and guards against the spillovers from its neighbours, it may slip back to its violent history.

According to Lindberg and Morrison (2005), Ghana's General Elections of 1996 indicated that only approximately 10% of Ghanaian electorates who responded to a survey reported that they had voted for candidates for ethnic-regional reasons in that year. This indicates that in Ghana, a small percentage voted as a result of ethnicity while in Kenya, it is viewed as a major cause of violence in almost every General Election period since the start of multi-party politics in 1991. This is evidenced in the formation of political parties where leaders rely heavily on tribal affiliations for support during elections in Kenya.

Diedong (2012) believes that a country's judicial system is just as important in determining if a country is democratic or not (Diedong, 2012). Diedong's opinion in determining whether the country is democratic or not is not agreeable. It all depends on how the rule of law is upheld and the constitution which resides in three branches of government: the executive, the parliament and the judiciary and how they perform their roles respectively and the composition of electoral management which conducts elections. For example, a country could be having the best constitution in the world but lacks good political will from leadership and a partial electoral management body; the whole process will fail.

In the 2007 general election in Kenya, the judiciary was not independent to discharge fair justice; that is why the opposition (ODM) declined to present their case to the judiciary preferring mass action. Therefore, election violence is a common feature in African politics despite variation in intensity which calls for urgent measures and good political will from leaders. The subsequent elections of 2013, 2017 and 2022 Kenya's general elections were hotly contested and the outcomes have never been received well by the opposition side leading to negative interethnic

relations despite court rulings the repeat of what took place in 2007 post-election violence was to be avoided at all costs.

### **2.1.3 Background on electoral management practices on interethnic relations in Kenya since independence**

In contrast with her neighbouring countries to the East, North and West, Kenya has had relative peace since independence; however, violence has been of low magnitude until the post-election violence of 2007. Kenya's electoral history dates to the colonial days. It began in 1905 when an order in a council established the first Legislative Council. Subsequent orders in the council saw subsequent elections held from 1909 through to 1961. The constitutional foundations of democratic governance in Kenya were first put in place during the Lancaster House Constitutional Conferences of 1960-1963. These conferences debated political transition in Kenya and succeeded in substituting British colonial rule with elected African leaders (Owiti, 2008).

Kenya attained her independence from Great Britain in 1963 which was the first General Elections held based on universal adult suffrage. It should be noted that at the beginning, Kenya became an independent state in 1963 based on a multi-party system in which KANU and KADU, both founded in 1960, formed the government and the opposition respectively (Mbai, 2003). The then constitution, which was referred to as the *majimbo* constitution, provided for a quasi-federal system with an elective bicameral legislature (the Senate based on single District representation and a Lower House of Representatives elected on a constituency basis).

The formation of the two parties - KANU and KADU - respectively emerged as a result of suspicion from the minority tribes who wanted to disable the alliance of the two major groups, the Kikuyu and Luo which had formed KANU party. The minority groups were the Kalenjins, Masaai, Turkana and the Samburu but also included the Luhya of western Kenya and the coastal

ethnic groups. Majority of these groups are pastoralists in nature and they depended on cattle keeping and other domestic animals thus they needed to protect their expansive land for their animals.

Apart from the minority groups fear of dominance, the aliens were not also comfortable with the dominance of the two groups thus provided them with both material and ideological support for the idea of federalism (Oyugi, 1997). The author's argument has been enhanced by Asingo (2003) that the British sought an assurance that their interests would be safeguarded after independence through disuniting the KANU and KADU which is relevant to this study. European tilting towards the minorities was based on their own interests hence the pursuit of the, policy of divide and rule for selfish ends. The Kalenjin community and the Maasai had occupied a large portion of the land in the Rift valley and most of the settlers too had tracts of land in the same region. The fear was that the government in power under the first president was distributing land to the Kikuyu community from central Kenya. This threatened them because they knew that the government could also repossess their large tracks of land. They introduced the ideology of *majimboism* which was interpreted by many as 'you go where you belong'. The early *majimboism* created a rift between different communities in Kenya. Today, Kenya still faces the same problems in some parts of the country especially in the volatile areas during General Elections which may be viewed as a contributing factor to recurring violence.

According to Gertzel (1970), KANU leaders had vowed to kill *majimbo* at the first opportune moment. Federalism was not stipulated in Kenya's independence constitution. That made the government have strong opposition towards it. They neutralised it through intimidation, denial and enticement by the state. The strategies used weakened the opposition contributing to a one-party system. According to Asingo (2003), by 1964, Kenya had merged the two parties into a *de-facto* one-party state under KANU. To entrench his leadership, Kenyatta perfected the art of neo-

patrimonialism. This involved incorporating into the political system and the bureaucratic institutions the patrimonial logic of ascribing the right to rule to a person rather than to an office in the form of clientelism. Democracy, which had just been born, was destroyed at an early age. Enticing, luring and intimidation became a norm in most of the African states. To enhance the authors' views, Mbai (2003) reiterated that the emergence of autocracy or personal rule can be traced to the mid-1960s when the first independent government caused the dissolution of the only existing opposition political party, and systematically began to amend the original constitution that had carried the promise of the establishment of a liberal democratic state in the country. By the early 1970s, the ruling elite had managed to firmly establish an autocratic state in Kenya.

According to Wanyande (2006), under the one-party regime, the ruling party sponsored all the candidates. Nomination of candidates was also controlled and conducted by a clique of powerful party politicians who ensured that only those politicians acceptable to the regime were nominated and subsequently elected. Voters, therefore, did not have much influence on who was nominated and who became a candidate for election to parliament. There was the widespread belief that in some constituencies, the election was rigged in favour of pro-establishment candidates. Consequently, elections turned out to be a mere formality conducted periodically. The Wanyande's view was based on the one party system regime unlike in this situation where many parties take the centre stage. The playing field is very different because several parties are competing to run the government.

Further, the choice was even more restricted in the case of presidential elections. Only one presidential candidate was presented to the electorate. This was in line with the practice by which the party president would also be the party's presidential candidate. There were no primaries for presidential candidates. No wonder that President Jomo Kenyatta was elected unopposed throughout his presidency until his death in 1978. It did not matter that the elections were neither

free nor fair as they were managed by civil servants on behalf of the government (Wanyande, 2006). In a multi-party democracy, it gives room for more than one president to compete for power vacuum thus it contradicts with the author's view where one president was presented to the electorate. This denies the electorates freedom of choice.

The life experience that has shaped the typical Kenyan citizen's understanding of violence is similar to those in most independent nations that have succumbed to dictatorship (Roberts, 2009). In the Kenyan context, this translates into the average citizen believing that the executive branch always wins and that those in power will do whatever it takes to stay in power. This was seen with the first president of Kenya who utilised his position to consolidate power by encouraging KANU members of parliament to make significant ratifications to the constitution between 1964 and 1969, effectively creating more power for presidency (Roberts, 2009).

In 1978, Daniel Moi assumed the presidency through his constitutional right as Vice President, and was able to take advantage of the vast infrastructure of executive power created by his predecessor. He used this ability to abolish the multiparty system through an amendment to the constitution in 1982, making him head of both the executive branch and the Parliament (Mutua, 2008). With the re-emergence of multiparty system in 1991, Moi was able to use his position to gain power in 1992 and 1997 respectively. For example in the 1992 election, according to Mutua (2008), it is estimated that around 1 million youth were not given a chance to register to vote because they were denied the national identity cards needed to register which in Robert's (2009) interpretation is an example of structural violence. This contradicts with the study conducted by Gabriella (2015) that young people are a major determinant of the outcome of the election because more than 60 per cent of Nigeria voters are the youth. The Kenyan citizen's life experience of understanding conflict through the dominance of the executive and political elite is demonstrated by the fact that the constitution was amended 28 times from 1963 to 1992, each time limiting the

freedom of its citizens and expanding the power of the executive and political elite (Roberts, 2009). As the Institute for Education in Democracy (IED) observed that by 1969, the role of the Electoral Commission had become blurred. Most of its functions, such as registering voters and supervising the conduct of elections were placed under the control of the non-constitutional post of Supervisor of Elections in the office of the Attorney General.

In the words of Wanyande (2006, 13, p. 59),

“The Electoral Commission was renamed the Electoral Boundaries Review Commission and restricted to the role of reviewing electoral boundaries and determining the number of constituencies and their names. It is not clear how these changes emerged, but they had the effect of bringing the supervision of the electoral process under the control of the government”

The electoral environment was restricted because of the undemocratic nature of elections under a one-party regime; voters did not use elections to determine the quality of their representatives in terms of their performance. Thus, even though several politicians lost their seats in various elections, there is no clear evidence that this was caused by voters' voluntary decision to vote them out. Some of the losers may have been rigged out by the ruling party because they were considered no longer useful. In this regard Wanyande (2006) found out through the observation by IED that the use of the state's administrative apparatus introduced partiality into the electoral process, especially against those considered by the government to be anti-establishment. This has been persistent even in the era of democracy in most developing countries.

The dissatisfaction with the one-party system contributed to the urge for multi-partyism. Two years later, the one-party system was briefly challenged when the late Jaramogi Oginga Odinga, Kenya's first vice president, and twenty-six other MPs resigned from KANU to form KPU (IED Report, 1997). The difference leading to the formation of an alternative party was due to ethnicity, personal interests and ideological differences. The same issues keep on recurring in our today's lives.

It further indicated that KANU's single rule was achieved by banning opposition parties in 1969 leaving Kenya a *de facto* one-party state to a *de jure* one-party state when a constitutional amendment in 1978 ruled that no other party would be registered to participate in any elections. This contributed to the collapse of multi-party politics until 1991 when multi-party politics was reintroduced.

According to Mbai, (2003), throughout the 1970s and 1980s personal rule by Jomo Kenyatta and his successor Daniel arap Moi promoted repression, abuses of human rights, ethnicity, nepotism, patronage and widespread corruption. These factors led to the beginning of the consistent decline of the economy from 1973, and the general deterioration in the efficient delivery of public services in the country that have persisted to date. The use of authoritarian legislations only succeeded in suppressing and not eliminating ethnic identities. It created animosities among ethnic communities and killed the unity factor which was enjoyed when Kenyans were fighting for their independence.

In 1991, after a lot of pressure from Kenyan activists and the international community, multi-party elections were re-introduced. This coincided with the ethnic clashes of 1992. The HRW views were contrary to the government's description of the violence as 'spontaneous ethnic clashes', the evidence suggests that much of the violence was sponsored by the State whose actions did very little to contain it HRW, (2008). In a report on the organised violence observed in the Rift Valley, HRW (2008) also establishes an ethnic standpoint in its analysis. HRW points out that the tension over land ownership was the main structural trigger of the conflict. The report also indicates the lack of a strong constitutional order contributed to the violence. HRW (2008) however, defines the conflict as ethnic-based by outlining how ethnic tensions that transcended the previous general elections had permeated the 2007 electoral conflict which is in agreement with the researcher's view.



The Kenyan Human Rights Commission (2001) estimates that state-sponsored or state-condoned violence killed 4,000 people and displaced over 600,000 between 1991-2001. Much of this violence was sponsored in the then Rift Valley province and in parts of urban Nairobi where the opposition was believed to be in control since 1992. According to Kagwanja (1998), the result of this violence was the retribalisation of politics and the erosion of civic nationhood. This contributed largely to tribal enmity which has destroyed the relative unity enjoyed since independence. The animosity between different ethnic groups emerges during elections where people vote not because of party manifestoes but vote in leaders whom they think can rally behind as a community. The formation of parties is skewed towards tribal inclinations.

In December 1991, the government, under pressure from all sides, repealed section 2(A) of the old constitution (Oyugi, 1997). His view was applauded by (Nasong'o, 2007) when the movement for constitutional reform was energised by calls for a new constitution by the Catholic Church and the Church of the Province of Kenya (currently the Anglican Church of Kenya). These organisations including the media, citizens, and some political leaders in the government and opposition amounted to heavy pressure on the government for multiparty politics. The international community entered the political arena by cutting down on aid and loans to the government in the agitation for democracy. This eventually yielded processes toward General Elections in 1992. In the researcher's view, this was replicated in the aftermath of 2007 post-election violence when Kenyans demanded a new constitution which was promulgated in 2010.

Multi-party politics paved the way for the growth of political parties which included FORD Kenya, FORD Asili, Democratic Party, Social Democratic Party, National Development Party of Kenya and other smaller political parties. KANU however remained in power after winning the General Elections of 1992 and 1997 amid violence and allegations of electoral malpractices.

Much of the violence occurred during the pre-election period and was concentrated in the Rift Valley and Western provinces while the 2007 was countrywide.

Some scholars have argued that most of the laws governing elections in Kenya do not facilitate free and fair elections (Mwagiru 2002; Mulei 2002; Wanjala 2002). According to Wanjala (2002), the law cannot provide the normative and procedural framework for conducting democratic elections, because the concept of free and fair elections has never been part of the country's electoral jurisprudence. The former constitution gave the incumbent president too much power, second, the constitution, from which the electoral laws were derived, was best suited to a one-party system of government. There is, therefore, a need for far-reaching reforms of the electoral laws Wanjala, (2002).

The agitation against laws governing elections reached their peak when in 1996 the civil society resorted to mass action to force the government to reform the constitution as a condition for supporting the 1997 elections. The government yielded by establishing the IPPG after persuading some members of the opposition to work with their KANU counterparts to institute minimum constitutional reforms. The reforms focused mainly on the provisions affecting elections. Despite these reforms, KANU retained power in the 1997 elections albeit with a much smaller margin than was the case in 1992. It was hoped, that the new constitution could be an improvement and that the source of electoral laws could create an environment conducive to free and fair elections (Wanyande, 2006). The country debated for a new constitution, which was successfully promulgated in 2010 after the country faced General Election violence in 2007. Currently, the country has a new constitution which has been used to run the 2013 and 2017 General Elections respectively. The 2010 constitution is still undergoing the implementation process. The current 2010 constitution on laws governing elections in Kenya facilitate free and fair elections.

The regime in power, while aiming to suppress opposition political parties, also recruited and sponsored 'tribal militias' and gangs for them to terrorise and instigate ethnic violence the same way as other African countries such as Cameroon, Malawi, Nigeria, South Africa and Sudan have done (Kagwanja, 1998). Such gangs and local militias were alleged to be present during the General Election violence of 2007, for instance the alleged Mungiki, Kalenjin warriors, Chinkororo, Sabaot Land Defence Forces and many others. These militias caused a lot of mayhem in different parts of the country.

Kagwanja (1998) argues that the Kalenjin and Maasai ethnic groups were allowed to occupy land abandoned by the internally displaced groups to ensure the political alliance of these groups and to prevent them from joining opposition parties. This is contrary to what is in the chapter four of the 2010 Kenyan constitution article 39 on the bill of rights which states that " *every citizen has the right to enter, remain and reside anywhere in Kenya*". The 2007 post election violence contributed to people fleeing their homes but later went back to their residence.

Kagwanja (1998) claims that during the 1992 National Elections, there were apparent local "Kalenjin warriors" who assaulted non-Kalenjin groups' homes and farms. The administration explained the violence as spontaneously generated racially driven conflicts brought on by multi-party politics. The idea was not the multi-party politics but the government in place was not ready for competitive politics.

This could be compared to argument by Mamdani (2002) that the turn of events in Kenya could be similar to the Rwandan situation where the Hutu massacred thousands of Tutsi. The Rwandan case on the researcher's view could be quite different because Rwanda's case was a genocide which involved mass killings, destruction of property and mass movement of refugees. Further, the Rwandan case was due to ethnic centuries old animosity and revenge between two groups while in Kenya is was because of the outcome of the disputed presidential results. The minority

group Tutsi in Rwanda had dominated the majority Hutus for centuries leading to prolonged tensions (Prunier, 1997). Prolonged dominance by one ethnic group lead to tension and anxiety contributing to electoral mistrust thus resulting to election violence.

The pattern of events in Kenya might be further described as follows: on January 11, 1998, Kalenjin warriors assaulted Kikuyu in Stoo mbili in Njoro, Nakuru, and Samburu as well as Pokot warriors raided Kikuyu villagers of Ol Moran in Laikipia District. Farms nearby were targeted by the attacks. The Kikuyu coordinated punitive expeditions against the Kalenjins. In these retaliatory raids, victims became killers (Chelang'a, *et al.*, 2009). In any election violence, the attackers and retaliators may become victims; the raiders may find themselves victims and the victims may overpower the raiders and vice versa.

Politicians instigate violence as a tool for winning elections. People's need for land was used by some politicians to incite violence, in some parts of the hot spot areas in Kenya, as it has happened in other African troubled elections (Roberts, 2009). Politicians use the land issue as a weapon to instigate violence for their own selfish interests. Thirst for power and enrichment is their driving force. In every electioneering period, violence occur in some parts of the country which, according to Markussen and Mbavu (2011), in 1992 and 1997, there was relatively little political violence before the 2007 elections but the 2007 post-elections was intense and widespread and caused a lot of destruction.

Roberts (2014) claims that the National Rainbow Coalition (NARC), a coalition of opposition political groups, emerged in 2002 and prevented the Kenya African National Union (KANU), the party that was in power at the time, from seizing control. With 62% of the vote, Mwai Kibaki (running on the NARC platform) formed a coalition government that distributed authority among the many ethnic groups. Within 100 days of his election, he changed the constitution to rein in the executive power that had grown dramatically over the preceding forty years (Mutua, 2008).

People from several ethnic groups in Kenya anticipated a shared power arrangement that would provide accountability. In contrast to the previous multi-party elections, in which political parties were founded incorporating certain ethnic groups, the author argued that the formation of the multi-ethnic NARC coalition was largely responsible for the democratic success. Kibaki won the election with a landslide for several reasons. The two NARC and KANU presidential contenders were of the same ethnicity, the Kikuyu. Thus, the election focused on prosperity of the country setting aside ethnic agenda. Given that KANU had ruled for decades, people needed change and vehemently fought any issue associated with Moi.

The opposition had learnt their bitter lessons especially of forming many different parties with less numbers against a group having tyranny of numbers as indicated by Mutahi Ngunyi (2017) in his political analysis. The memorandum of understanding (MOU) that united the ethnic groupings into the NARC coalition and helped Kibaki win the election had essentially disintegrated a few weeks into the poll (Mutua, 2008). Because four important positions—including four prime ministerial positions—did not materialise, the MOU's promise to share power across the cabinet failed to take place (Mutua, 2008). There was a breach of the MOU between the different groups that formed the NARC coalition.

The president appointed people from his community to occupy government positions, thus following in the footsteps of his predecessors by appointing people to appointed positions based on ethnicity (Mutua, 2008). The events which took place before the 2007 elections were: on July 22, 2005, Parliament votes to keep a strong presidency in a proposed new constitution, August 22nd Kenya publishes a final draft of a new constitution, which bestowed the president powers to appoint and dismiss the prime minister and in November 22nd, voters rejected the new constitution in a referendum (Curtler, 2010). President Kibaki fired his government the next day. This frustration contributed the feeling of marginalisation among the members of NARC coalition

which may have fuelled the violence that took place in post-election violence of 2007 General Election. On December 30th, 2007 Kibaki is declared the winner in presidential race and hurriedly sworn in. Riots erupted across the country (Cutler, 2010). The riots contributed to loss of lives and destruction of property.

#### **2.1.4 The 2007 General election violence**

The NARC party rebels who had fallen out with the government joined with KANU to form the Orange Democratic Movement (ODM). This cast the powerful Kikuyu, who were supporters of Kibaki and his Party of National Unity (PNU), against the formidable Kalenjin and Luo, represented by Odinga and the ODM, and set the stage for the 2007 General Elections (Anderson & Lochery, 2008). Those who were discontented formed a new party under the umbrella of ODM headed Raila Odinga. Ethnicity was a feature of the 2007 campaign from the outset. The ODM cast the PNU as representing the inequitable status quo and suggesting that the Kikuyu had gained disproportionately from Kibaki's rule while Kenya's forty-one other ethnic groups had been marginalised.

The ODM's anti-government messaging resonated in areas with a history of serious land conflicts that were prone to electoral violence - the Rift Valley, the Coast and certain urban informal settlements, especially in Nairobi, Nakuru and Naivasha. This is shown in Murkussen and Mbuvi's (2011) findings that the intensity of violence was high in areas with higher Kikuyu population such as Naivasha, Nakuru and Eldoret than in areas with very few Kikuyus. While the ODM won considerable support as a result, a consequence was that they contributed to rising ethnic tensions between Kalenjins and Kikuyus in those areas (Human Rights Watch, 2011). This may have contributed to electoral management malpractices leading to 2007 post-election violence in Uasin Gishu and Trans-Nzoia counties.

The tension according to the study was not because of land issue but party politics which communities had enshrined into them. The dominating parties were PNU and ODM. What emerged was that everybody was to vote for ODM; especially in areas dominated by the Kalenjins and Luos ethnic groups. Since Kenya has had a history of voting on tribal lines after the era of multi-party politics of 1992, the 2007 General Elections results were inclined to vote on ethnic affiliations which sparked off electoral violence after the announcement of presidential results.

Allies, however, had shifted after the violence of the 2007 General Election; in Sondu, for instance, the Luos were fighting alongside the Kipsigis to defeat Kisii. This change in political orientation significantly affected the dynamics of conflict in Sondu and even throughout the rest in Nyanza. Members of the Kisii, Meru, Kamba, and Kikuyu ethnic groupings were targets in Kisumu amid the 2007 post-election violence due to the unification of the Kalenjin along with Luo ethnic communities (Gentleman, 2008).

The election day, December 27, 2007, was a pretty calm day. On the other hand, a sharp increase in hostilities was partly caused by delays in the release of outcomes in some locations. The opposition saw the Electoral Commission's delays and vague remarks as evidence of potential election manipulation. The contest had been tight; surveys conducted on December 27 and 28 showed that Odinga was still ahead by about a million votes (Gentleman, 2008).

The opinion polls may have polarised the 2007 post-election violence (Mbae, 2017). It gave a lot of hope to the opposition leaders and their supporters. Opinion surveys conducted before to elections have demonstrated a high association between voting intentions and ethnicity (Kimenyi & Romeo, 2008). The ODM's strongholds provided the earliest results, which were released on December 29 and placed Raila Odinga well ahead. Even then, over the day, his advantage shrank despite the fact that ballots from Kibaki's stronghold areas had not been disclosed. After some dispute about whether every vote had been counted, the Electoral Commission declared Kibaki

the winner on December 30. When then Chief Justice Evans Gicheru hurriedly swore in Kibaki as the president-elect at dark at the State House, tensions across the nation increased and ultimately led to election violence (Muema, 2017). The swearing-in was done late in the evening and few people witnessed the swearing ceremony. Also, when Kivuitu said, "*I don't know whether Kibaki won the election*" (Roberts, 2009). This confirmed the lack of credibility in the then ECK which may have contributed to the General Election violence of 2008 (Waki Report, 2008)

The ODM called a news conference to announce allegations of electoral fraud shortly after Kibaki took office on December 30 (International Herald Tribune, 2007). Martha Karua, the former Minister for Justice along with Constitutional Affairs, recommended that ODM challenge the decision in court. The leadership of ODM, believing that its followers would not receive an impartial trial in a system that did not have an independent judiciary, called on their supporters to take part in large protests in order to pressure the government into nullifying the election results. Groups stealing businesses, demolishing homes and property, and killing other Kenyans were the outcomes of the ensuing disturbances, which were characterised by pronounced ethnic differences (Gettleman, 2008). In response, the police opened fire with live ammunition and carried out extrajudicial executions in the impacted districts (CIPEV, 2014).

In Mombasa, the Rift Valley, and other urban informal settlements, victims—Kikuyu in particular—were frequently singled out due to their ethnicity. Murders carried out by militias started to happen frequently. These disenfranchised youth-led gangs, which were mainly established along ethnic lines, set up checkpoints along roads to target other passengers and perceived ethnic foes. Unhappy events included reports that crowds of people burnt around thirty individuals to the death in Kiambaa hamlet, Eldoret, when they sought sanctuary in a church (CIPEV, 2014).



The world and the Kenyan community were caught off guard by the extent of the trauma and institutional violence that occurred (Maupeu, 2008). 300,000 households were internally displaced, 1500 individuals died, and 3000 innocent women were raped in the horrifying devastation Roberts (2014). There was a distinct and regional variation in the pattern of violence. Violence, both prompted and unprovoked, was common during this time. Attacks by members of the Orange Democratic Movement against Kikuyu and PNU supporters throughout the Rift Valley, Nairobi slums, Nyanza, as well as Mombasa are one example. Once more, Mungiki-led Kalenjin, Luo, and Kikuyu attacks were coordinated and targeted at the residents of Rift Valley, Nakuru, and Naivasha (Maupeu, 2008). Gender-based violence such as rape and forced circumcision of males from Luo and Luhya communities were common (Bayne, 2008). Though Bayne (2008) mentioned gender-based violence being rampant, (Gettleman, 2008) argued that the aftermath of 2007 post-election violence resulted in protests, groups looting stores, destroying homes, property and killing other Kenyans.

There are three ways to evaluate the reasons for Kenya's post-election violence (Murithi, 2008). The Office of the High Commissioner for Human Rights (OHCHR) of the United Nations (UN) dispatched a fact-finding mission to identify the criminals responsible for the atrocities perpetrated during the post-election violence, despite the fact that many people believed the violence was a spontaneous response to the election results. Speaking about the overall state of affairs, the OHCHR mission spokespersons insisted that the anger of opposition supporters over what they perceived to be the theft of the presidential election was what set off the violence, which in turn resulted from a build-up of frustrations brought on by the substandard living conditions alongside historical disenfranchisement of the voiceless majority (Mutiso, Chesire, Chessa, & Kemboi, 2010). Considering the all notes according to the mission's report, the method of violence used by the perpetrators varied from one area to the other, greatly depending on area-specific dynamics.

According to Adudans et al. (2011), youth groups' destroying and looting of stores, homes, and other commercial establishments in the suburbs of Nairobi as well as Kisumu was the initial type of violence, that many onlookers believed to be spontaneous. Targeting populations of small landowners and farmers who are thought to be supporters of the government was the second type of violence that occurred in the Rift Valley. The main goal of this pattern of violence is to drive these people out of the area and prevent them from returning.

The international world, according to Wrong (2009), was appalled by the violence including the Kenyan government's disregard for civilian safety, thus they moved quickly to send delegates to Kenya. President John Kufour of Ghana, the AU Chairman, met with Kibaki and Odinga on December 30, but they were unable to create a mediation mechanism. The United States Assistant Secretary of State for African Affairs, Jendayi Frazier, came on January 4, 2014, while Nobel Peace Laureate Archbishop Desmond Tutu visited on January 2 (Lindermayer & Kaye, 2009). Arriving on January 8th were four former presidents of state: Benjamin Mkapa of Tanzania, Joachim Chissano of Mozambique, Katumile Masire of Botswana, and Kenneth Kaunda of Zambia (Wrong, 2009).

The African Union (AU) formed a panel of "Eminent African Personalities" to arbitrate between the two presidential contenders. The panel included former UN Secretary-General Kofi Annan, former President Mkapa of Tanzania, and former First Lady of Mozambique, Graçia Machel. Odinga and Kibaki decided to take part in the panel-led "Kenya National Dialogue and Reconciliation" (KNDR) process on January 10. Beginning on January 22, the parties decided to negotiate on four agenda items over the course of four weeks. These issues included: (1) putting an immediate stop to the violence and restoring fundamental rights and liberties; (2) dealing with the humanitarian crisis and assisting in healing, reconciliation, and the restoration of peace; (3) fixing the political crisis; and (4) dealing with long-term issues along with the past causes of the

conflict, such as modifications to the constitution, laws, and institutions. After the fighting stopped on February 28, Kibaki became president and Odinga became prime minister of a coalition government (Wrong, 2009).

Examining the institutional issues that were bringing the nation to an impoverished state was initiated by the talks led by the Committee of Eminent Persons. To determine the relevant elements and create a framework for policy and suggestions to address them, three commissions were established: The first was the Commission of Inquiry into Post-Election Violence (CIPEV), also known as the Waki Commission, which was tasked with examining the factors that led to the electoral violence; the second was the Independent Review Commission on the 2007 Elections (IREC), also known as the Kriegler Commission, which was tasked with reviewing the electoral process; and the third was the National Task Force on Police Reform, whose job it was to examine the conduct of the police (Wrong, 2009). The conclusions of the three commissions formed the basis for many of the reforms initiated by the government to prevent election violence recurrence in future.

All in all, the 2013 General Election was more peaceful as compared to the past elections amid allegations of rigging by the opposition. The electoral management body was alleged to have failed. The Biometric Voter Registration (BVR) kit failed to work effectively contributing to the Coalition of Reforms and Democracy (CORD) taking their discontent of presidential results to the Supreme Court. The 2013 General Election created rifts among leaders across the political divide. The rifts keep on recurring and have surpassed the mechanisms put in place to address election violence in the country. This is evidenced in the recent 2016 protests from the CORD alliance that are pressurising for the removal of IEBC of Kenya due to alleged biasness in the electoral process. New commissioners of IEBC were appointed in January 2016 with the hope of reforming the electoral system.

All Elections ranging from regional to national have been affected by election violence either before, during and even after elections, however, the 2007 General Elections were unique in the sense that it was intense, widely spread, more destructive and occurred after the announcement of presidential results. The election which was to be exercised freely on people's rights turned out to be violent against the principles of a democratic society.

Electoral management practices in the world vary from country to country. In the developed world, electoral management influence on interethnic relations is little if any. This is because electoral management is guided by rules and regulations which bind the electoral system. The state does not control electoral bodies but is fully independent. In most developing countries there is great influence on interethnic relations because the state becomes part and parcel of the electoral bodies though most claim the independence of electoral bodies. When the state supports malpractices in the electoral system, there is a potential for malpractices leading to interethnic violence. Nationally, the state controlled the appointment of senior officials who were running elections during the 1992, 1997 and 2007 General Elections. Though in the 1997 elections, the commissioners were appointed from all the parties through IPPG it had little impact on the control of ECK. Despite all the efforts in place, the outcome of multi practices from the electoral management was common hence the existence of interethnic electoral violence.

## **2.2 The Structural Context of Electoral Management on Interethnic Relations**

Electoral management practices and violence in the developing world have continued to attract the attention of scholars such as Macpherson (1996), Hougland (2008), Nasong'o (2007) Oyugi (1997), Mwangiru (2002), Wanyande (2006) and many others worldwide though little literature has been written by the African scholars addressing the electoral management practices on inter-ethnic relations. This is hardly surprising since most of the election management investigated violence currently witnessed in the world is taking place in the continents of Africa, Asia and

Latin America (Teshore-Bahira, 2008). In developed democratic countries, political rights can make a society or people fight over issues which is a reason why developed democratic countries do not experience frequent election violence. In this case, the structural context is a bigger concept that encompasses election management that takes into account the wider electoral structures which include electoral policies, the social, economic and political spheres in which general elections have been held.

The organisational environment, which consists of the policies and procedures guiding the administration and conduct of elections, and the constitutional and legislative framework that oversees elections management comprise the political environment. These political environment factors, which include voter turnout, voter preferences, and the operations of the elections administration body, will inevitably impact electoral politics. They have a favourable or negative impact on the calibre of participants in the election process. Results from elections may be seen as a reflection of the will of the people in a situation where the political climate supports justice in the conduct of the process, but their legitimacy is always called into question when the elections are handled in an inefficient or incompetent manner. Based on structural contexts, the following themes suffice to illustrate many ensuing scenarios;

### **2.2.1 Election administration practices**

Modern nations' democratic processes require elections in order for different political players to compete over topics and choices. According to Nelson (2001), the goal of polls is to create a fair and impartial procedure that enables people to select a representative. The type of election, whether it is a referendum, a local election, a presidential election, or a parliamentary election, can influence the nature of electoral competition and the propensity of actors to use violence. Competitive elections are a component of democracy. When it is done fairly and transparently; it

gives the electorates a chance to exercise their electorate rights. On the contrary, when these electoral exercises are denied, it creates room for electoral violence.

There is a wide variety of institutions managing the practical aspects of elections. In some countries, the government administers elections (directing and controlling elections) while in other countries the government runs the elections under the supervision of another authority for instance electoral commissions which have been given full authority in controlling, overseeing, monitoring and evaluating elections. Yet independent electoral commissions organise other elections (Pintor, 2000). This explains a variety of institutions managing elections globally.

In many following the conflict and newly democratic countries, elections are actually held in an atmosphere of mistrust and suspicion, with a focus on efficiency, professionalism, openness, impartiality, and independence as crucial prerequisites for producing valid election results (Lyons, 2004). He goes on to say that electoral violence may be influenced by the electoral administration chosen because post-conflict elections are characterised by suspicion and mistrust, which makes issues pertaining to impartiality along with independence, effectiveness, professionalism, and transparency particularly crucial. Furthermore, all relevant parties' rules are taken into consideration while choosing the Electoral Commission. The commission which is impartial, transparent and independent can exercise its duties diligently; however, this can be disrupted in a situation where there is a lack of political will.

In Kenya for example, during the KANU regime elections were organised under the election commission which was not independent contrary to Pintor's position. The final result was determined by the government through manipulations. The 2010 new constitution allowed the formation of IEBC to conduct elections. Pintor's view relates to the current IEBC where the commission is said to have been given a full mandate to run elections independently but, in some cases, the government has some control over it. When this happens, it ceases to be independent.

Election administration works well especially when consensus is allowed to take place within political divides in a political system (Lyons, 2004). Sometimes, where consensus plays a role, it can again turn into the blame game. For instance, the ECK headed by the late Samuel Kivuitu was acceptable across the political divide but in the 2007 general election, he was at the centre of conflict after disputed presidential election results. His confessions that he was not sure who won the presidential elections between Kibaki and Raila were considered quite outrageous. The best choices can turn out to be the ones derailing the whole process. After Kivuitu, Issac Hassan's team came into place but still was at the centre of mistrust from the opposition parties. It led to the 2013 General Election presidential results being disputed in the supreme court of Kenya. The team was then disbanded before the 2017 General Elections.

In post-conflict cultures, there is a role for election administration in fostering violence. Such governance in these countries might foster an environment that is conducive to election violence (Hoglund, 2008). In Kenya, the structures which were in place allowed the inauguration of president Kibaki to be sworn in late at night in his second term in office. That alone created suspicion and mistrust among the electorates in early 2008. On the other hand, the electoral commission exacerbated the situation when election results started trickling in from Kibaki's area of support while results from ODM strongholds had already been tallied and announced. These developments sparked suspicions among leaders and electorates. Sicks (2008) presents the theory that every electoral institution's ability to conduct credible elections is essentially determined by its organisational design, degree of expertise, and degree of balance.

The structures and level of competence could be in place but the political will is lacking. The leaders in power should respect the rule of law. If that takes place then respect of the electoral process or election administration will work democratically. Lyon (2005) explains a situation where there is positive political will from leaders in power. In contests where these prerequisites

are not operationalized, the risk of political instability and electoral violence becomes high (Sisk, 2008). In societies where good practices are not upheld, there is a likelihood of election violence. The 2007 general electoral management practices were characterised by the same features thus contributing to post-election violence.

Such conditions are largely caused by the prevalence of electoral bias, a failure of accountability, the lack of sufficient funding in public institutions generally, and the lack of independence, impartiality, and competence on behalf of election-related institutions in particular (Jarstad, 2008). In situations where a country has political bias and the electoral management is partial, it becomes a breeding place for violence. The government in place normally takes advantage of the authority to undermine other opposition parties. The electoral commission is manipulated to benefit those in government. At the same time, if these electoral management bodies are not structured well, then it will create room for election violence.

Moreover, choices made over the nature of electoral management bodies are instrumental in facilitating the conditions for election-related violence. When the election administration is not independent, it paves the way for the government to manipulate the system in their favour. Evidence indicates that high levels of mistrust and divisions among political party representatives have become commonplace in countries that adopted partial-partisan electoral management entities (Reilly, 2002). In Africa's emerging democratic democracies, this is accurate. especially in situations when there is faith in the electoral commission's impartiality, concerns over the process's objectivity will persist, especially in the case of fair and unrestricted elections. Therefore, many emphasise the importance of establishing independent and expert administrative entities to address such issues (Reilly, 2002). This begs the issue of whether electoral management at the time contributed to the post-election violence in 2007.



### **2.2.2 Electoral rules and regulations**

Election-related regulations, both official and informal, contribute to conflict in post-war and emerging democratic states. These laws may create an environment that encourages violence and electoral strife in these nations (Hoglund, 2008). Conflicts stop when both official and informal rules have the support of political leadership.

These regulations can be roughly categorised as electoral governance regulations and electoral competition regulations (Mozzafar & Schedler, 2002). The rules of electoral competition, which are generally referred to as electoral systems in many texts, cover topics like electoral formulae, district size and borders, and assembly size. Election monitoring, dispute resolution procedures, party, candidate, along with voter eligibility as well as registration, vote counting, tabulation and reporting methods, and campaign funding are all covered under electoral governance rules. These regulations provide institutional incentives for participants in the political process to be modest and capable of settling conflicts (Reynolds & Sisk, 1998). It is contrary to the authors' opinion because rules may seem to be very conducive for conflict resolutions theoretically but when leaders do not practice them, there is a lack of political will and plays no role in preventing or ending electoral violence. Those in the playing game have to follow them thus avoiding violence during the electoral process.

Most societies in Africa have embraced democracy though these informal rules still exist and are put into practice hence leading to electoral violence. On the other hand, parties could be having formal rules to guide them but party leadership and party supporters disrespect the rules laid down leading to electoral violence. The constitution could also be in place with proper rules to be followed but in some cases, governments in power violate them. These rules have been given different labels by various scholars like "Nested Games" by Schedler (2006), "Norm Violations"

by Wigell (2008) and “Winning Strategies” by Collier (2009) which seem to be conflict-inducing in their true essence.

Political parties are required under the electoral code for behaviour to uphold the liberty and impartiality of the elections as well as to protect the democratic rights and liberties of other parties (Ndulo & Lulo, 2010). The IED underlined how important it is to have a comprehensive code that addresses every facet of the voting process. The fundamental tenets of the Constitutional Bill of Rights ought to serve as the primary piece of law guiding this code. In developed societies where these rules are applicable and the rule of law is respected, political parties have specific rules to govern their functioning. For instance, in Kenya, the Political Parties Act (2011) has been established to guide and control political parties in their functioning. Any political party doing contrary to what is required in the Act is likely to face disciplinary measures such as deregistration. This in the researcher's view works well in purely democratic societies but does not work well in societies where political leaders are pursuing their self-interests as in the area of study.

Research shows that many developing democracies' electoral authoritarian regimes embrace and implement several unwritten norms that stifle democratic competition in elections (Schedler, 2006). Furthermore, a number of post-conflict states have adopted hybrid (semi-authoritarian) regimes that employ comparable laws, and in these regimes, the danger of political instability along with violence has increased dramatically (Osterud, 2000). In such a case, these informal rules are applicable only in purely totalitarian societies which have no place in the modern world.

Imposing various limits on individuals' civil and political liberty is one among the strategic manoeuvres employed by such governments. This includes actions made by the authorities to limit the freedom of various social and political groups to gather for their purpose and to regulate the state and private print and electronic media (Ottaway, 2003). Governments that do not provide

freedom for the press and media create discontent among the populace and can create election violence. Where freedom of media is controlled by government, democracy is at stake.

Preserving important political offices and areas from electoral competition is the other tactic (Schedler, 2006). The occupant of such a post gains authority over the patronage resources along with hierarchies that are currently in place. In a society where democracy is practised and the constitution provides direction, this strategy is not useful. The government will be dictated to by the Constitution to do the right things. Manipulation becomes a thing of the past. In Kenya, the current constitution directs the government on what to do. It cannot go against the constitution and if it does the contrary, other bodies such as the civil society, opposition and other interested parties come into play thus minimising the manipulations by the government to pursue their selfish interests. Isolating political rivals from the electoral fray and dismantling their whole structure is another crucial tactic (Wigell, 2008). Such decisions, which may entail actions like deregistering opposition groups and depriving political candidates of their rights, are intended to restrict the amount of options accessible to the public during the election. These are the strategies employed by the majority of administrations in autocratic nations to prevail in political elections. These regimes likewise view the purchase of votes as an essential tactic for winning elections (Wigell, 2008).

Further, this strategy involves distributing public goods and services at personal and community levels through channels of patronage and dispensing money to an individual as well as group voters through networks of corruption (Gandhi & Ellen, 2009; Collier, 2009). The opponents are lured by enticing them with lofty rewards such as positions in governments thus weakening them. The strong financiers are enticed to join party politics the increasing financial base for parties. Consequently, voters are expected and obliged to render political support in return for the rewards

they received from politicians of the incumbent party (Collier, 2009). During elections, the opposition will not be effective in influencing voters since they will be financially weak.

A substantial percentage of the public who sympathize with opposition parties can also be systematically marginalised from the voter registration process (Ottaway, 2003). Some governments can use crude ways like technically not speeding up the process of issuing identity cards which are important in the electoral system. Instead of speeding up, they delay with excuses of lack of materials to be used in producing identity cards and at times scarcity of personnel. These are purely ways of denying electorates their rights to exercise their vote. What most democratic societies do is to check on the anomalies, especially on voter registration and the issuance of identification cards by using digital ways to minimise delays.

In addition to the views by Collier (2009), intimidation can also be prioritised by such regimes as a more reliable strategy for securing political support (Wigell, 2008). In undemocratic regimes, intimidation is used as a way of influencing opponents. For instance, women candidates get molested or even denied protection from security agents who expose them to the dangers of hooliganism. Both male and female candidates can be denied access to some venues to carry out their campaigning activities and that amounts to some form of harassment. These are strategies used by opponents to win by denying their opponents their democratic rights in modern society. Adhering to human rights issues will boost respect for human dignity.

As part of the overall politically motivated violence, agents of the ruling party often apply threats and coercion on political opponents and the voting public (Lindberg, 2006). These tactics are also considered by state agents as countermeasures against possible violence from the opposition side. This is contrary to the researcher's view that the intention of the ruling party in using such tactics is to safeguard their interest and not in any way counter-checking the opposition from any violence. The key strategic choice made by these regimes is electoral fraud. The main goal of

electoral fraud is to affect electoral outcomes and its scope extends from technical infringement of the electoral laws to outright employment of violence against voters (Lindberg, 2009). These two are intertwined where voters face threats and violence at their polling stations and at the same time rigging can be applied by state agents affecting the electoral outcomes.

Specifically, such violence may target registration data, campaign materials, ballot boxes, vote results as well as the voters themselves (Hoglund, 2009). All these are relevant in the newly democratic societies where these strategies have been applied in one way or another to affect the electoral outcome. To minimise this, stakeholders need to initiate reforms to curb hindrances of protecting electoral materials and registration data which is crucial in the electoral process. Recent studies have also indicated that all the above strategies were widely used by several African regimes (Collier, 2009). All these strategies discussed in one way or another are contributors to general electoral management on violence especially in the developing counties of the world.

### **2.2.3 Electoral management legal framework in the Kenyan context**

According to Carter (2010), a strong legal framework is essential for the effective administration of genuine democratic elections. The legal framework consists of the regulations found in domestic laws, such as election laws, media regulations, laws governing political parties, laws governing civil society actors, along with additional regulations and rules issued by the relevant authorities, such as election administration procedures. The international legal framework's electoral issues include the need for the legal structure to be non-discriminatory, the right to an effective remedy, the timing of voting and their impact on human rights and responsibilities, the protection of individual rights and fulfilment of obligations in addition to any derogation measures, and the role of the state, including the EMB, in upholding rights.

The electoral process in Kenya is directly governed by several laws. These consist of Kenya's 2010 Constitution, the 2011 Elections Act, the 2011 Political Parties Act, and the 2011 Independent Electoral and Boundaries Commission Act. Apart from the above mentioned factors, there exist overarching principles of international law and treaties that Kenya has ratified, which also exert an influence on the election process. Under Articles 2(5) and (6) of the Constitution of the Republic of Kenya, which acknowledge them as integral components of Kenyan law, the same has legal effect in Kenya (Ongoya, 2012).

The 1963 constitution serves as the foundation for the legal framework that governs elections in Kenya, which declares the constitution to be the ultimate law of the nation. All other laws are superseded by any rights granted and any obligations imposed by the constitution. Voter registration is guaranteed under the constitution. Anyone who is a citizen of Kenya, has maintained the age of eighteen, has resided in Kenya for at least twelve months prior to the registration date, and has been a regular resident, employed, or the owner of a business or residential block in the constituency in which they are applying for registration for a total of at least five months during the twelve months immediately preceding the date of registration is eligible to be registered as a voter in parliamentary, presidential, and civic elections. According to Section 43 of the Constitution, a person cannot register to vote if they are insane, insolvent, or have been convicted of an electoral offence. Furthermore, as per the constitution, an individual can run for office and be elected to be a member of the National Assembly if they meet certain requirements. These include being at least 21 years old, registered to vote in a constituency, being nominated by a political party, and having sufficient command of both Kiswahili and English to participate actively in proceedings. According to the Election Act of 2011, a Kenyan citizen who is at least thirty-five years old, registered to vote in a constituency for the National Assembly, and eligible to be elected as an elected Member of Parliament is eligible to be nominated for president. These are the main characteristics of the legislative framework that oversees Kenya's election process.

Furthermore, some overarching principles must be applied to the electoral system in Kenya in order to comply with the country's constitutional and legislative framework. When the many actors in the electoral process adopt laws, rules, regulations, and administrative choices or guidelines, these principles serve as broad, objective guidelines. These principles include: the electoral system must adhere to the freedom of citizens to utilise their political rights as stated in article 38 of the constitution; the principle that no more than two-thirds of the members of elective government organisations shall be of the same gender; the principle of equitable representation for individuals with disabilities; and the principle for universal suffrage, which is based on the desire for equal representation and voting rights (Ongoya, 2012).

The typical Kenyan citizen's perspective on war has been formed by experiences that are comparable to those of post-colonial countries that have fallen victim to authoritarianism. This translates towards the general Kenyan citizen thinking that the rule of law always prevails and that individuals in positions of authority would stop at nothing to maintain their position. As an example, consider Kenyatta, who used his position to strengthen power by pressuring KANU MPs to amend the constitution significantly between 1964 and 1969, so establishing a dictatorship (Roberts, 2009). This concurs with the view that the majority of members in the legislature may use the advantage of the tyranny of numbers to change the legislations which are not favourable to them.

Upon Kenyatta's death in 1978, Daniel Moi assumed the presidency through a constitutional provision entitling a Vice President to succeed a formal president. He was able to take advantage of the vast infrastructure of executive power that Kenyatta had created. In the words of Mutua (2008 p.66)

This was especially seen by Moi's ability to abolish the multiparty system through an amendment to the constitution in 1982, effectively making him head of both the executive branch and Parliament.

President Moi managed to utilise his position to intimidate the opposition and secure votes by using fraud in the presidential elections of 1992 and 1997 when the system of multiple parties reappeared in 1991. For instance, it is believed that over one million young people were prevented from registering to vote in the 1992 election due to the denial of Kenya national identity cards, which were required for registration (Mutua, 2008). Roberts (2009) stated that this was an instance of systemic violence.

The fact that the laws of Kenya was amended 28 times between 1963 and 1992, each time restricting citizen freedom and extending the authority of the executive as well as political elite, exemplifies how Kenyan citizens understand violence by means of the dominance of these elites (Roberts, 2009). This is against Kenya's 2010 constitution, which restricts the executive's authority. The legislative and courts are granted independence as a result, however occasionally there is some very slight intervention from the government. The 2010 Kenyan Constitution states in Chapter Ten, Article 160(1), that the judiciary, as established by Article 161, must not be subject to the oversight or direction of any individual or organisation in the exercise of its judicial authority.

The way the entire voting process was run has had a significant impact on both the quality and result of Kenyan elections. The Electoral Commission of Kenya (ECK) is in charge of overseeing Kenya's election administration. On the presumption that an independent electoral body could ensure the holding of free and fair elections, the ECK was established as a statutory entity. However, allegations concerning anomalies in elections have continued under its auspices, proving that this notion is untrue (Wanyande, 2006). The main grievance was that the ruling party, KANU, and its candidates had an unfair advantage in the electoral process. Election-related administrative ineptitude has also frequently been reported. To put it briefly, having an impartial



electoral authority is essential for holding free and fair elections, but it does not ensure that the process will be conducted impartially at all.

The administration of election procedures often entails the interaction of several institutional duties. The goal of all of these initiatives should, in theory, be to provide democratic elections where the general public, candidates and political parties running for office, and society at large may all feel that their diverse interests are fairly recognised and safeguarded. The electoral body's own administrative proficiency is a crucial component as well. The degree of election officials' training, the electoral body's financial resources, and the appropriate administrative setup for conducting elections are some of the variables that determine their competence. In other words, sufficient financial and human resources are necessary for the ECK to function effectively. The researcher's study on electoral management practises aims to shed light on the various instances of administrative inefficiency in elections, including late polling station openings, delayed start times for actual voting, misplaced or insufficient ballots at certain polling places, names missing from the voter registration on election day, and improper handling of election results (Wanyande, 2006).

Insofar as it hires personnel directly from the ground up and is not reliant on already-existing local administrative frameworks—as is frequently the case in nations where elections are overseen by a ministry—the ECK retains operational independence from governmental institutions (IREC, 2008). The ECK's institutional independence is provided for in subsection 41 (9): "In the exercise of its functions ... the Commission shall not be subject to the direction of any other person or authority." The only limitation on this institutional freedom is in the power provided to Parliament in subsection 41 (10) - explicitly "without prejudice to subsection (9)" - to "provide for the orderly and effective conduct of the operations and business of the Commission and for the powers of the Commission to appoint staff and establish committees and regulate their

procedure". In addition to the substantive electoral process requirements in the National Assembly and Presidential Elections Act, the Election Offences Act, and related election legislation, Parliament has authorised the ECK to use this power to appoint any staff members it may deem necessary to carry out its functions (IREC, 2008). The President is not obligated to confer with any other organisation or individual when selecting ECK members, in contrast to the practise that has been commonplace in many nations with independent electoral commissions. It's also important to remember that the President is not bound by any legal standards when appointing people, regardless of their background in the workforce or ability to represent a range of interests.

The Electoral Commission of Kenya (ECK) Owiti (2008) was established in accordance with Section 41 of the Kenyan Constitution at that time. The ECK must consist of a chairperson, four to twenty-one members, and be chosen by the President. The Vice Chairman of the Commission is chosen by the ECK, while the Chairman is selected by the President. It is noteworthy, parenthetically, that while the President is constitutionally authorised to appoint each and every Commissioner, the 'IPPG package' gave political parties the authority to suggest possible Commissioners for the President to appoint, based on the nominees' parliamentary strength and as decided by the ECK.

The Commissioners must be citizens of Kenya, and the Chairman and Vice Chairman must be qualified or have served as judges of the Kenyan High Court. Other than that, there are no other requirements for appointment. It is specifically forbidden for members of the National Assembly, government workers, and members of the military forces to hold the position of Commissioner. With regard to tenure security, a commissioner may be dismissed for misconduct or for being unable to carry out the duties of their position. Even so, the President would still need to have been consulted on the issue of the incapacity or misbehaviour, and the tribunal would have needed to propose the removal to the President. Furthermore, a Commissioner's position remains empty

only when five years have passed after their appointment or if an event occurs that disqualifies them from holding such an office. Regarding independence, the ECK will use its powers without being directed by any person or body, will hire employees in compliance with all applicable laws, and will establish its own procedural guidelines. Its decisions are made by a majority of all its members. It is notable, however, that the Commissioners' salaries are determined by Parliament and allowances are determined by the President. None of these can be taken away or reduced to the detriment of a member. These expenses are charged from the Consolidated Fund (Owiti, 2008).

Commissioners are appointed for a renewable term of five-year. The first group of commissioners was appointed in an election year (1992), and another set was appointed in the next election year (1997). At the time of the appointment of commissioners, time was very short before the elections. According to IREC (2008), the end of each five-year cycle recurrently coincided with an election year, potentially causing a significant crisis in planning and implementation. Ten commissioners were replaced in January 2007 and another five in October 2007 respectively. With elections scheduled for December that year (the chairman's mandate was renewed only in December 2006, after some uncertainty and public debate which created suspicion from the opposition).

The Secretariat of the ECK has been built up over many years. Although at independence, the Constitution of (1963) created an electoral commission, which played a subdued role because the office of Supervisor of Elections, under the Attorney-General, supervised elections instead. Although the Supervisor of Elections had wide powers to conduct elections and register voters, the office was not independent: it neither had operational autonomy from the Executive nor did its officers enjoy the security of tenure. The result was most evident in the much-discredited *mlolongo* (queue-voting) elections of 1988. After much agitation for political and legal reform, and with the resumption of multiparty politics, Parliament abolished the office of

Supervisor of Elections in 1992 and recognized the ECK's role as the sole body responsible for the conduct of elections. While commissioners were appointed in 1992, it was not until 1998 that the ECK Secretariat began to take shape.

The ECK claims that the commissioners conducted the 1992 elections with little help from a small number of government agency employees. Through a number of committees, the commissioners of the period and their small number of "borrowed" employees managed the day-to-day operations of the ECK. The same personnel oversaw the 1997 elections, and four more District Elections Coordinators (DECs) were hired on a contract basis.

According to Owiti (2008), the ECK's organisational structure started with an Administrative Secretary serving as the secretariat's head. Additionally, there were department heads and a deputy administrative secretary, each with a small staff. Accounts, Supplies, Personnel, Public Relations, Computer, and Legal were the initial departments. Subsequently, the Administrative Secretary became the role of Commission Secretary, and once the ECK concealed its independent vote, it became an accounting officer. Some departments were renamed or split to form new departments, such as Finance, Procurement and Supplies, Human Resources, Public Relations, Elections Training, Information Technology, Legal, and Political Party Registration. The Deputy Administrative Secretary became the Deputy Commission Secretary, and a second deputy was appointed. A professional hired in accordance with the ECK's recruiting practises oversaw each department. To the initial basic organisation of a DEC, each DEC also featured an Assistant Registration Officer, an Election Officer II, a secretary, and a driver/messenger. Similar to the commissioners, the Secretariat staff members own their own "management standing committees" that convene on a regular basis to discuss diverse matters and carry out determinations after conferring with commissioners. The disciplinary committee, the tender committee, the

appointments and selection committee, the training committee, and the budget committee were among them.

Although certain tasks continued to overlap, the Secretariat was expected to change for the better as it evolved, which led to conflict between commission and management inside the institution. Although top staff members including the Commission Secretary minimised this tension in their testimony to IREC, the Chairman of the Commission acknowledged it (IREC, 2008). It is not the consequence of animosity between the parties, but rather of a role conflict that arose when commissioners, who were accustomed to overseeing the day-to-day operations of the ECK, were presented with a permanent staff team that included experts.

The IED research states that there was a fundamental change in electoral administration throughout the previous general elections, particularly from 1992 to 2007 following the emergence of multiparty politics. The hiring and training of temporary electoral officers was the most significant flaw in the election preparation process. Similar to other election management bodies (EMBs), the ECK's staffing levels fluctuate seasonally to meet the demands of the election schedule. In addition to its regular field staff and its headquarters secretariat staff, it hires several kinds of temporary workers during critical points in the election process, such as voter registration, polling, and counting.

The ECK employs registration officers, assistant registration officers, registration clerks, trainers, and support personnel in order to get ready to register voters. It employs presiding officers, deputy presiding officers, polling/counting clerks for each polling station, nomination clerks, trainers and returning officers, deputy returning officers and assistant returning officers at the constituency level in order to satisfy the needs of polling. Apart from this primarily field-based workforce, its headquarters team was further bolstered when required. The quality and reputation of an election process are greatly impacted by the "code of conduct enforcement officials" that the ECK also

hires to serve on peace committees. Apart from the calibre of the election operations itself, it has been seen in various nations that the hiring of temporary poll workers and the plans made for their timely and orderly compensation taint democratic processes and fuel unstable security environments.

The ECK created job descriptions and qualification criteria for each role for the majority of EMBs, and included them in the same report. Selection panels were established at each level as needed, and the positions were publicised. For example, the ECK itself selects returning and deputy returning officers centrally from a database of employees with comparable prior experience as well as new candidates who satisfy the set requirements. Those with more experience seem to have a distinct edge. A district-level panel made up of the assistant returning officer and the principal permanent employees of the district office chooses the presiding and deputy presiding officers as well as the registration clerks.

The choice is contingent upon the approval of the ECK commissioner who holds minimal authority for the relevant district office. Since there were so many people engaged, the chosen professionals are often taught before other trainers receive training. The training is conducted in close proximity to the real action in order to limit staff turnover and guarantee that the instructions are retained in their memory. According to reports from observers, the hiring process appeared to have been honest, yet there have been some allegations of favoritism—particularly tribalism and nepotism—in certain places. An even more concerning accusation was the apparent last-minute replacement of several returning officers by the Area Commissioner. This could have contributed to the electoral fraud that caused the unrest following the 2007 election.

Throughout the election process, the presiding and deputy officers in charge have tasks to do. They have the right to gather and guard all election educational materials, supervise the smooth and orderly administration of the election prior to, during, and following it, guarantee the proper

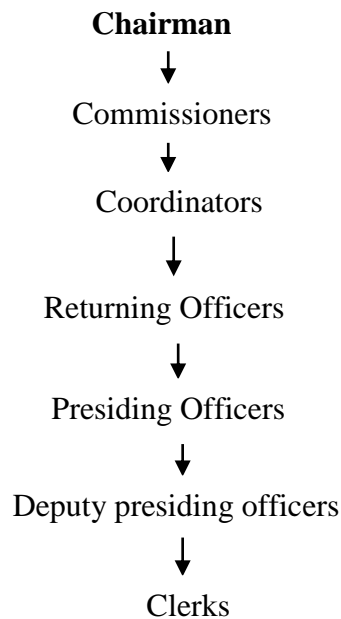
conduct of voting in the polling place or tallying centre designated by the Returning Officer, count, tally, and announce provisional outcomes at the polling place and deliver them to the RO, guarantee the safe custody of all trusted documents, assist in the education of polling and counting clerks, and perform any other tasks as delegated by the Returning Officer.

The 2011 election manual outlines the requirements for the presiding as well as deputy presiding officers: they must be nonpartisan, highly ethical Kenyan citizens; they must hold a degree or diploma from an accredited institution; they must be computer literate; they must have effective communication skills; they must write reports well; they must be able to manage people, sensitive data, and materials; they must be available for the duration of the election; and they must be residents of the constituency.

Counting clerks and poll workers are vital during each election season. They need to have fulfilled the following requirements: KCSE Aggregate C and above, be virtuous and impartial, and be accessible for the duration of the Elections. The County Assembly Ward in which the requested polling place is located is where candidates for the post of polling clerk/counting clerk must reside.

The following are their assigned tasks: looking up the voter in the election register book and, as of right now, the Kenya Integrated Election Management System (KIEMS); guaranteeing that voters arrive at the polling place without interruption; recognising voters with special needs and directing lines of traffic; setting up the polling or counting room; helping the PO or DPO to stamp and distribute ballots to those who have been identified as eligible voters; helping the PO or DPO to sort and count ballots; and any other tasks as delegated by the RO or PO requirements.

## **ECK Officials**



**Source: ECK (2017)**

The constitutional provisions provide that the constitution is the supreme law of the land. Any right provided by the constitution and any obligation imposed by it takes precedence over all other laws. Therefore, the following requirements by different actors within the electoral circle are guided by the following provisions: The constitution provides for the right to register as a voter (Election Act, 2011).

The very important arm of the ECK is the role of the clerks who play a very crucial role in the conduct of elections. This arm is composed of voter registration clerks, polling clerks and counting clerks. All clerks of the election process are required to have the basic requirements to qualify to conduct elections either in registration, polling and even in counting. One must be a Kenyan citizen of high integrity, be non-partisan, have a minimum of KCSE Grade C- (Minus), have Computer proficiency, should have effective communication skills and good report writing skills, be a holder of ICT-related diploma certificates from a recognized institution will be an added advantage, must be available for the entire period of the inspection of the Voters Register,



should be a holder of Kenya Identity Card, and must be a resident in the constituency, ward and registration area in which they apply for ( Election Act,2011). The registration clerk has several duties to perform such as to

publicize voter registration activities, open and Close the Registration Centre at the designated time, facilitate the registration of voters, collate and submit inspection data to the relevant Electoral body, report the progress and challenges of the voter registration process, ensure the security of the voter registration materials, and to perform any other duty as may be assigned by the Registration Officer.

Additionally, throughout the voting process, poll clerks are supposed to carry out the following tasks as designated by Kenya's electoral commission. These responsibilities include setting up the polling place ahead of time, making sure that eligible voters can cast ballots, processing and checking in voters, distributing ballots to registered voters, offering guidance and support to voters, responding to inquiries from the public, outlining how to use voting machines, keeping the polling place orderly on election day, and collecting results after the polls close (Election Act, 2011).

For a member of parliament, a candidate must be a citizen of Kenya who has attained the age of twenty-one years, is registered in a constituency as a voter in elections for the national assembly, able to speak English or Kiswahili well enough to take an active part in the proceedings of the national assembly, nominated by a political party or an independent candidate. A person is not qualified to be elected as an MP if at the date of his or her nomination for election he or she: is by virtue of his or her act under acknowledgment of allegiance, obedience, or adherence to a foreign state, is under sentence of death or sentence of imprisonment exceeding six months imposed by a court of law in Kenya, is judged to be of unsound mind through a judicial process, is an undischarged bankrupt. If all these obligations are not adhered to then it may lead to a

compromise of the constitutional process contributing to electoral malpractices within the election management board.

An Election Agent is an individual who observes the conduct of elections on behalf of an independent candidate or a political party on Election Day. The Elections Act defines an agent as; “a person duly appointed by a political party or an independent candidate for an election...and includes a counting agent and a tallying agent.” Election agents play a vital role in overseeing the whole electoral process on behalf of their parties and candidates, even though they are chosen to represent their political party or independent candidate on Election Day. Additionally, candidates have the option to send agents to oversee, on their behalf, the party nomination process (also known as the primaries).

According to The Elections Act, 2011, Political Parties and Independent Candidates are allowed to nominate one election agent per polling station for Election Day. Up to six candidates from political parties will run in a specific polling place that requires representation. Regardless of the posts the candidates are running for, the party's one agent must represent the organisation and all of its candidates. Compared to earlier Kenyan elections, where agents often represented individual candidates rather than parties, this marks a significant shift. Election agents help to ensure free, fair, and credible elections, which furthers the larger goal of bolstering democracy in Kenya. They are tasked with being the official observers of their Party or Independent Candidate at the polling place on election day.

It follows that party agents have to strike a balance between serving as partisan representations of their party including candidate and serving as essential participants in preserving democracy and the fairness of the election process. The Independent Electoral and Boundaries Commission must receive the names of one national chief the representative and forty-seven county chief agents from all political parties, as well as from independent candidates, at least fourteen days prior to

the election. In an ideal world, the 47 other appointed County Agents would oversee the National Chief Election Agent in coordinating their efforts, and the county agents would oversee their subordinates in their individual counties. This arrangement differs from earlier Kenyan practises, which did not call for any systems to be in place to coordinate the efforts of election agents. Parties as well as independent candidates have a great chance to increase electoral transparency thanks to this arrangement.

An election agent is usually a very pertinent person within the election process. They are of different categories depending on the electoral system in place. Qualifications for Agents: During the election process, the quality of the representative chosen by the party or independent candidate is crucial. A knowledgeable representative can verify that the polling, tallying, and counting procedures are carried out in a transparent manner and guarantee that the party or candidate's right to a free and fair election is respected. He or she has to meet a number of essential requirements in order to be able to accomplish this, such as being of good moral character and being an honest person who can do their duties in a professional manner. The Elections Act's Second and Third Schedules include the Electoral Code of Conduct, to which agents sign and swear an oath of confidentiality.

Election agents run the risk of violating this code of behaviour and endangering the candidature or party's prospects of winning by disqualifying them. Strong allegiances and steadfast support for the party or candidate will make election agents more inclined to defend their rights as well as less susceptible to being bought off or coerced by other players into breaking the Electoral Code of Conduct and defecting. Proficiency in reading and writing is crucial. While there is no legal requirement for one to be able to read and write to qualify as an agent, one should have the capacity to identify and document their observations in the electoral process. Reading facilitates the consultation of legal information and the recording and reporting of events. Additionally, an

election agent has to be perceptive and detail-oriented. To properly represent their party or candidate, he or she has to be a team player who can collaborate with others. His or her ability to collaborate and communicate with other team members is crucial. When working as party agents, they will come into contact with nonpartisan observers and other agents from opposing parties, thus they need to be prepared to forge consensus. It is necessary for an agent to establish a rapport with these individuals and to promote dialogue and consensus-building wherever feasible.

An election agent's primary responsibilities include watching the polling place be set up and opened, making sure the ballot boxes are empty before voting starts, Examine and record the ballot boxes' serial numbers and seals; record the ballot papers' serial numbers; seal the ballot boxes alongside their own independent applicant or political party seals; note whether the voting process complies with regulations; note the polling station's closing procedures at the conclusion of the polling period; note whether the counting procedures are rigorously followed; and confirm that distinct packets are created and sealed for every type of ballots and materials following the vote count. The agents may also put their seals on the packets and ballot boxes (These seals are provided by the Electoral body). Additionally, they sign the declaration papers at the polling places. For instance, the Presiding Officer will sign the forms if the election agent fails to sign them or is not present when the votes are counted. Any agent who refuses to sign the declaration form will also have their refusal noted by the Presiding Officer. The sealed ballot box and individual packets are transported by an agent to the Constituency or County Tallying Centre, where they are delivered to the Returning Officer. In addition, they see the results being tallied, sign the declaration forms at the County or Constituency Tallying Centre, and finish a checklist before sending it to the independent candidate coordinator or the party as directed.

The main objectives of agents in the election process are to: identify human error and rigging, be alert and know the election procedures to uncover mistakes and rigging, bring problems to the

attention of polling officials; and collect information about the election: provide their party/candidate with information about the conduct of the election at the polling station they are deployed to (Election Act, 2011).

Election clerks are very important in any election process. The mandate of election clerks is to publicize the register of voters verification or inspection activities, open and Close the register Verification or Inspection Centre at the designated time, facilitate the inspection of the register of voters by voters and collate and submit inspection data on claims to the election body officials. This should be done in accordance with the rules and regulations of the electoral body.

Apart from electoral rules that are practiced in the election process, other related factors suffice towards electoral violence in Kenya. The literature provided is silent on how electoral management contributes to interethnic violence in African countries therefore this study is meant to highlight the contribution of electoral management on interethnic relations in Kenya.

#### **2.2.4 Ethnicised politics**

Political leaders and political opponents in Africa have made increasing use of ethnic animosities. Ethnicity and ethnic relations as an agent of international and internal conflicts and violence are relevant in Africa (Asiwaju, 1984). According to Asiwaju (1984), studies done across Africa show that ethnicity is among other factors causing electoral violence. The realities of the African ethnic context were enshrined in the 1884-1885 Berlin Conference where Africa was partitioned by the imperial powers (Peacock, 1982). In dividing African territories amongst themselves, the imperial powers paid little attention to ethnic, cultural, geographic and other factors (Asiwaju, 1984). This element has contributed to the promotion of ethnic animosities.

Diamond (1986) observes that in ethnically fragmented societies, elections become not only the vehicle for protecting the general process of capitalist accumulation of wealth but also for

promoting one's culture which is a distinct class in competition with others. Thus, they become a major expression of ethnic conflicts. This situation arises when a class in society is created as a result of the amount of wealth accumulated. The rich in the society, who control the means of production, form their class distinct from ethnic affiliations which subsequently become a clique of persons with immense political influence on their communities. This has become a common trend in Africa. The same classes share ideas across political divides but because of their pursuit of selfish interests, they become a stumbling block to the nation's unity and cohesion.

The process of change has created threatening uncertainties for some groups and opened up a range of transitory political opportunities for ethnic entrepreneurs (Gurr, 2000). This has been advanced by Wanyande (2006) that since the restoration of the multiparty system in 1992, virtually every major ethnic group has presented a presidential candidate and gone on to vote for one of their own. This has been driven mainly by the belief that having one of your own as president increases the community's chances of attracting more public resources for advancement. According to Jonyo (2003), the ethnic elites from the president's ethnic group are guaranteed job opportunities from which huge kickbacks are drawn and lucrative government contracts are won. Moreover, these elites can obtain big loans from state-owned banks and other friendly banks without the threat of penalties for defaulting on the repayment, as they enjoy protection against drastic recovery mechanisms (Jonyo, 2003). It is important, however, to note that not everybody, or even the majority of people from the president's community benefit from the patronage politics associated with the presidency. In most cases, it is a few individuals from the community who are appointed to high public offices. Selected elites from other ethnic groups are also given appointments to public positions out of political expediency. Yet, each ethnic group tends to vote for one of their own, especially for the office of the president.

Further, it has become a trend that whenever a person from an ethnic group outside the president's own is sacked from public office, the dismissal is interpreted as punishment for the whole ethnic group and a loss of access to development projects or presidential patronage. This paves the way for leaders to enrich themselves, through corrupt deals, if one of their own ascends to power; it becomes an opportunity to protect their interests and those of their close allies and from the same community. This is evident in the political developments in Kenya since Independence; despite the adoption of the new constitution, this vice is still prevalent which may contribute to General Election malpractices.

Elections do not only allow for political competition, participation and legitimacy but also allow a peaceful transition of power, thereby making it possible to hold accountable those who govern. This is why it is often argued that elections facilitate communication between the government and the governed, and also have symbolic purposes by giving voice to the public (Höglund, 2006). As such, a democratic society is, expectedly, a non-violent and orderly society. This partly explains why elections have become part of the international peace-building strategy, which strongly links peace to development (Höglund, 2006).

In reality, the partition of boundaries by the imperial powers contributed to ethnic communities and posed serious implications for the development of internal interethnic relations. In cases where an international border divides the same ethnic community, although the conflict might appear internal, it becomes internationalised through contagion. This could be a result of ideological sympathy. Asiwaju (1984) found out that imperial powers divided Africa without caring about their ethnic, cultural and geographical factors which could be a recipe for internal conflicts. The authors' view is contrary because the study is addressing internal issues which aggravate violence during the electioneering period. This means that the locations differ because a border issue is not very important.

Further, Asiwaju (1984) emphasised the political history of independent Africa which is replete with many accounts of political conflict which have attended the course of the continent's political life. Notable among political conflicts are the Biafra civil war in Nigeria of 1967-1970 which pitted the Ibo against the federal government: The civil war in Angola against Jonas Savimbi's guerrilla group, the conflicts in Burundi and Rwanda which the protagonists were the Hutus and the Tutsis and so on as well as the Somali crisis where conflicts is at the level of clans, with each of the six clans families: the Darod, Digil, Dir, Hawiye Isag and Mirie seeking to impose supremacy over others by force. Even among relatively peaceful African states such as Kenya, incidences of antagonism and conflicts based on these assumed inter-ethnic rivalries are ever present and though they have been kept at a simmering non-violent level, sporadic skirmishes involving ethnic violence are not uncommon. These have exploded in General Election periods and the 2007 election, became very intense with adverse effects.

Nasong'o (2000) observes that conflicts and electoral violence are a result of the skewed nature of resource allocation and lack of effective political institutions but not as a result of the inter-ethnic hatred thesis. His argument is based on the idea of competition for resources in situations characterised by a lack of effective political institutions. The low levels of political institutionalisation in Africa have engendered conditions in which resource allocation is so skewed in favour of the self-aggrandising activities of incumbent regimes together with their supporters, that disfavoured social categories, be they ethnic, religious, or regional, have been forced to mobilise to articulate their interests with the resultant political antagonism that has invariably led to conflicts. The author's views have a strong base in Kenya's politics because it has been experiencing unfair distribution of resources. This is evidenced by the findings that unequal distribution of resources has led to animosity among ethnic groupings or 'nations'. This has been associated with those holding power.



Ethnic cleavage is seen to be among contributing factors to electoral violence in Kenya. The country comprises forty-three distinct ethnic groups with diverse cultures. It has been established that ethnic identification is very strong in Kenya (Kimenyi, 1997). This identification is an important way of championing their socio-political and economic interests collectively. At times, this collective action contributes to animosity among other ethnic groupings if their interests are not compatible. Since violence has been organised along tribal lines, violence is purely attributed to 'ethnic hatred'. This ethnic hatred is linked to electoral politics and competition over available resources.

According to Kimenyi (1997), the electoral outcome assumed that voting would proceed along ethnic alignments. Political parties are mainly organised based on ethnic identity and are connected to the way political support is secured during elections. In support of this view, in several instances, politicians use ethnic identity as a viable means of mobilising political support in times of elections (Collier, 2009). This has been demonstrated by the formation of political parties in Kenya. Political parties are mostly tribal factions displaying ethnic character headed by their tribal kingpins for instance, TNA by Uhuru, URP by Ruto, Ford Kenya by Wetangula, ODM by Raila, and so on. They use their ethnic support to mobilise for votes. This has been elaborated by (Kipruto, 2012) that since independence, politics and political parties in Kenya have rarely, if ever, been organized around ideologies and philosophies; they have predominantly been organized around ethnic groups and tribal Kingpins, (Margaret, 2014) posits that it is so because the political elite use their respective tribal communities for their selfish political agenda. This is in agreement with the researcher's view that politics organized on ethnicity leads to a most volatile nation thus contributing to electoral malpractices because of the thirst for power to control and dominate the high political office for their selfish interests. In cases where these political groupings are not strong enough to compete with other stronger parties, they come together in the form of a coalition. This is evidenced in what took place in 2002, 2007 and in 2013 General

Elections. In this case, Kimenyi is associating General Election violence with ethnic hatred which is contrary to Nasong'o views on an unequal distribution of resources.

According to Hecter (1987), ethnic solidarity might involve the group's taking on the status of an interest group and becoming an advocate for the interests of the group, often in competition with other ethnic groups or it could be as a result of primordial or circumstance. Ethnic solidarity might directly result from a change of circumstance, for example, economic opportunity in a society or it might be the result of a rational choice by ethnic group leaders to use their identity to secure political, social or economic benefits for the group. Ethnic solidarity takes different dimensions; in the 2007 general elections, different ethnic groups came together to vote as a block against one major tribe which was in power to secure political power - failure to do that sparked election violence in Kenya.

In the words of Levinson (1994),

“Ethnic solidarity becomes most profound in situations of competition among ethnic groups, with the groups operating as interest groups. Ethnic solidarity is not certain nor constant...., particularly the nature of other relations with other ethnic groups and the opportunities and advantages members of a group of one group expects to accrue through identification with another group.”

This was a clear reflection in the 2007 General Elections when most of the ethnic groups came together collectively because they were pursuing a common interest. Ethnicity remains a major problem in Kenya mainly because many political actors usually pretend that it does not influence their behaviour; yet findings by Kakwanja, 2008) demonstrated clearly that it is a major factor in the political process. It has been used by competing claimants to extract resources from the centre and by the state to determine the structure of access; by politicians to mobilise political support in their factional and national electoral contests.

The effect of ethnicity on voter behaviour and consequently election outcome is most evident in presidential elections, parliamentary elections held in constituencies encompassing settled areas

(Wanyande, 2006) and in urban constituencies. Ever since the restoration of multiparty politics in 1992, virtually almost major ethnic group has fielded a presidential candidate and gone ahead to vote for one of their own. This has been driven mainly by the assumption that having one of your own as president increases the community's chances of attracting more public resources for development (Jonyo, 2003).

“The ethnic elites from the president's ethnic group are promised of plum jobs from which huge kickbacks are drawn and profitable government tenders are won. Besides, these elites can borrow big loans from state owned banks and other friendly banks without the threat of penalties for defaulting on the repayment, since they enjoy protection against drastic recovery mechanisms.”

It is important, however, to note that not everybody, or even the majority of people from the president's community benefit from the patronage politics associated with the presidency. In most cases, it is a few individuals from the community who are appointed to high public offices. Selected elites from other ethnic groups are also given appointments to public positions out of political expediency. Yet each ethnic group tends to vote for one of their own, especially for the office of the president. Significantly, whenever a person from an ethnic group outside the president's own is sacked from public office, the dismissal is interpreted as punishment for the whole ethnic group and a loss of access to development projects or presidential patronage.

Ethnic ideology is a problem when it is used as an instrument of mass mobilisation (Oyugi, 1997). In such a situation, the right to dissent or the liberty to act according to one's conscience is lost for fear of the individual being labelled a traitor by his 'people' from the same community. In an interview done with one of the interviewees, people were forced to vote to the inhabitants' choice, which may have contributed to General Election violence in the area of study.

The same idea has been raised by Glickman (1995) and Sithole (1998). Ethnicity *per se*, could be accommodated in a democratic society. Indeed, ethnic conflict is incompatible with the institutions of democratic governments if it finds expression as a group interest among other

interests and if the means of expression provide openings or rewards and not merely sure defeats (Glickman, 1995). Accepting the existence of ethnic loyalties is the surest way of finding ways and means of taming their expression rather than denial and artificial suppression (Glickman, 1995). When ethnicity is received positively, and not manipulated for selfish interests, then it minimises electoral violence during elections.

The Kenyan dilemma during General Elections is real and has been responsible for most election violence. Since the emergence of multi-party democracy, both the opposition and the regimes in power continue to pursue ethnic agenda while officially condemning each other as the culprit. In these circumstances, taming of ethnicity becomes a nightmare in Kenya. As long as the country remains poor and with a distorted structure of access, as long as economic liberalisation currently continues to hurt rather than benefit the bulk of the disadvantaged group (in both class and ethnic senses) the process of political and economic liberation or democratization will facilitate ethnic passions instead of taming the same. Hence, the study found that ethnic relations contributed to the post-election violence of 2007.

### **2.2.5 Land question**

The land is a dimension of electoral violence that in one way or another affects the running of electoral management practices which increasingly becomes a cause of election violence in Africa. Land is increasingly becoming a cause of conflicts in Africa where land access had traditionally been characterized as relatively egalitarian. Such abuse prolongs conflict which creates long-term divisions that reduce the effectiveness of peace-building efforts. It has been shown that local land conflicts can erupt into large-scale civil strife and political movements (André & Platteau, 1998). Land conflicts are common in Kenya but have not erupted into large civil strife rather land issues have contributed to violence during General Elections. Most politicians use land issues to polarise hatred for their selfish political gains.

The underlying factors such as population pressure, competition for agricultural land, land for commercial purposes and urbanisation have led to an increasing number of land conflicts and the current land tenure systems in Africa may not be adequately equipped to resolve such conflicts (André & Platteau, 1998). The author is not specified particular countries but has given general causes of violence due to land factors. The study sought to find out exactly how this land factor is a problem during general elections and especially in 2007 post-election violence.

In most African countries, formal institutions for land administration were often simply superimposed on traditional structures without a clear delineation of responsibilities and competencies (Deininger, 2003). The author links land administration with traditional structures but after independence, most countries established structures to look into land ownership. In Kenya, the structures have been put in place but how to implement them properly has been a nightmare; in the past, it was implemented based on the interest of the patronage and the close associates of those in leadership. This in one way or another has created competition over land, contributing to post-election violence. The land issue is so critical that if solutions cannot be reached, then the same problem will still linger on in years to come.

It is perceived that Kenya's "land question" is the primary source of the ethnic clashes. The land question, viewed by many as the primary source of ethnic violence, is not true. Though the land is a contributing factor to general election violence in the past, the study sought to find out if the land factor may have contributed to 2007 post-election violence. Among these factors, some communities felt that they have been marginalised on economic and political fronts. The marginalised communities have a notion that a larger proportion of national resources goes to those communities in power. This has created animosity among communities leading to a build-up of tensions which is a recipe for election violence.

Rampant corruption in the acquisition, registration, and administration of land matters has been a major problem in Kenya in the past. The Ndungu Report noted that throughout the 1980s and 1990s, public land was illegally and irregularly allocated “in total disregard of the public interest and in circumstances that fly in the face of the law”. “Land grabbing” and the allocation of public land as political patronage were part of the common corruption during this period. Those involved in the allocation were senior public servants, but also local land boards, the courts, and a range of officials including members of the provincial administration, politicians, and others. Land allocations were, therefore, used to reward “politically correct individuals”, and became more politicised. Given that the recommendations of the Ndungu report were never implemented, this has increased the sense of frustration in attempting to deal with land tenure disputes.

Furthermore, as land is an emotive issue, politicians have capitalized on issues surrounding it including encouraging violence during elections (Waki Report, 2008). The manipulation of grievances over land ownership, access and utility remain central drivers of electoral conflicts in Kenya today. This is in part due to the limited availability of arable land and a tenure system that is inconsistent with the country’s rising population and the demands of modern agriculture.

In the pre-colonial period, land was commonly owned and traditional rights and obligations ensured direct access to all. According to Ogendo (1999), colonial authorities assumed that all land to which private ownership could not be established by documentary evidence was ownerless. These areas came to be known as the white settler farms. Indigenous communities who had occupied these areas were moved to marginal reserves and all land that was not in their occupation was declared crown land. This resulted in overpopulation in the reserves which forced the reserve occupants to migrate into the Rift Valley as squatters and to provide labour on settler farms. At independence, issues of investment and private property, including land rights emerged which was immediately politicised.

The pastoralists, who include the Kalenjin, Masaai, Turkana and Samburu in the Rift Valley, regarded the settler farms as belonging to their ancestors and favoured a federal system that would provide a guarantee against “land-hungry” squatters and immigrants. There was sharp division over land reforms, with a radical faction that advocated the seizure of land arguing that the settlers' land was stolen by the crown and after independence it should be distributed to the indigenous people (Ogendo, 1999). This was done based on benefiting the powerful persons who were controlling the regime during Jomo Kenyatta's reign in power. This has created antagonism among communities because they had a notion that their land was taken away by the ‘newcomers’.

A series of draconian land regulations between 1899 and 1915 resulted in the alienation of huge tracts of fertile lands belonging to pastoralists and semi pastoralists communities such as the Kalenjin, Masaai, Samburu and Turkana in parts of the Rift Valley for use by whites. They recruited non-indigenous agricultural labourers from ethnic groups such as the Kikuyu, Luo, Kisii and Luhya from the neighbouring provinces to work on their farms (Kagwanja, 1998). During the pre-colonial period, the non-indigenous agricultural labourers on the European farms took advantage of the land-buying schemes championed by the then president Jomo Kenyatta and bought the land they had worked on from the white settlers; in effect locking out the inhabitants who had been moved out by the imperialists. Kenyatta government bought land for people from central who had been moved from their homes, thus creating a long standing hatred from others. The government in power then concentrated with only one community which was viewed by many as unfair deal which raised some eyebrows.

During the second 1962 constitutional conference, it was resolved that the Europeans could surrender land on a willing seller willing buyer basis. Many of the migrants individually or collectively, subsequently bought land from foreigners and settled in areas outside their central homes, principally in the Rift Valley. The high net inflows of people in the region were attributed

to settlement schemes that were initiated by the government soon after independence. The majority of the immigrants in the Rift Valley came from Central Province (Mbithi & Barnes, 1975). The Kikuyu from central were alienated from their homes to other areas because the land was taken by the few rich individuals in central Kenya at the expense of the majority who were displaced and are now facing the consequences of eviction. The resettlement schemes provided fertile ground for ethnic animosities. The areas with a higher percentage of alienated land are Kajiado, Laikipia, Trans Nzoia, Uasin Gishu and Nakuru. Most of the ethnic violence during, before or even after General Elections took place in these areas.

According to Oyugi (1997), the notion of ‘a people’s area’ which resulted from the formal politico-administrative enclaves later led to the heightening of ethnic self-identity or sense of belonging. This process created a sense of exclusiveness which eventually manifested itself in the rejection of ‘outsiders’. This resulted into heightened tension especially during the ushering in of multi-party democracy (Oyugi, 1997). That transition created hatred contributing to self-identity and resulting in the rejection of those seen to be intruders in other people’s land. The regime in power then was not in favour of introduction of multi-party politics in place of a one-party system KANU. Pro-Government leaders and government in power used that as a weapon to convince the electorates that Kenya was not yet ready for multi-party politics.

According to Nabushawo (2008), the land issue has remained a sensitive issue in the Rift Valley for a long time. The post-colonial leadership has not addressed it fully thus in almost every electioneering period there has been a possibility of land issue election related violence. The immigrant groups in the region have borne the consequences of violence from the dissatisfied groups. These groups express their displeasure with the government policy by evicting their ‘assumed’ enemies who are accused of having benefited from the unfair land allocation by post-colonial leadership. This relates to the 2007 General Election violence. Victims suffered at the



expense of the outcome of election results. Using violence should have been the last resort in a civilised and democratic society.

The Waki Report on General Election Violence established that citizens are often concerned about resources, including land, and services and how they are distributed unequally contributing to inequalities in the society. According to the constitution, anyone can own land in any part of Kenya. No part of the country belongs to an ethnic group; anybody is free to live anywhere he deems fit and own property so long as it has been acquired legally. He further emphasised that this phenomenon is de facto a characteristic of most areas, particularly as many of the newly created districts since the 1990s have been ethnospecific, leading to the creation of ethnically homogenous effective “native reserves”. This, in turn, has created the notion of “insiders”, who are native to a place and “outsiders”, who have migrated there, a notion that has been tapped by aspiring politicians (Waki, 2008). This represents a real situation because such incidences have been tapped by aspiring politicians for their gains. Scholars such as Oyugi, and Nason’go have given their scholarly views on how political leaders have been using land issues to incite the electorates against each other in a way of advancing their interests.

#### **2.2.6 Media**

Democracy functions effectively without a truly independent media. According to Oyugi (1997), most Kenyans in rural areas (80%) of the population relied on state radio Kenya’s Broadcasting Corporation (KBC) for news. The rural affluent also had access to state TV. These were turned into KANU propaganda outlets throughout the campaign period. All presidential functions during a one party system were covered by the state radio as a matter of routine though the opposition was denied the opportunity to ‘sell’ competing ideas to the electorate. However, with the emergence of multi-party politics since 1991 and the proliferation of the media, this has changed drastically. A situation where other media stations are not allowed to function, it creates room for

exploitation by the regime in power. This was relevant during a one party system in Kenya where the only powerful station was the state broadcasting station - KBC. Other media houses were not in place because they had no access and most individuals were not exposed to the business and financially weak to run broadcasting stations unlike in the present Kenya.

The media have been an important internationalising agent of internal conflict and violence (Gergen, 1990). They are not only an agent of conflict and violence but in a democratic society, is used to promote unity and education on political consciousness. When media play such a role, the electorate will be in a position to know what is right and wrong and therefore minimises conflicts in societies. According to Gardener (2002), media have the power to destroy and build relationships. Further, the author argues that media encourages violent activities, tensions, hatred between races, ethnic and social groups within countries for political objectives resorting to deception. Hate speech, for example, demonstrates how freedom of speech is abused to deliberately heighten existing ethnic hatred. The media presentation of issues along ethnic connotations can trigger electoral violence in a country.

Conflicts in Rwanda and Burundi became known as they unfolded, as did violence in Sudan. Because of the ubiquity of modern electronic media, the effects and the brutality of conflict are known instantaneously in different parts of the world (Mwagiru, 2000) which was applicable in the 2007 General Election violence. Media managed to broadcast live events of violence in Nairobi, Naivasha, Kisumu, Eldoret, Mombasa and other areas of the country.

Media, both print and electronic can play an important role in defusing and containing conflicts. It can do so by being deeply aware of the fragility of a country's social fabric therefore the requirement to objectively report conflict incidences as they unfold. According to Kurgat (2000), the media need to go beyond being fact deliverers to news analysts by providing adequate and candid information to create empathy for all sides involved in violence. Media was also used to

calm election violence and leaders used those platforms to address the electorates on the consequences of election violence in the country. Media brought about the intervention of eminent persons in Kenya during the post-election violence of 2007. The agreements were reached and information was disseminated to the electorates and the country came back to normal. In this case, the media can destroy or save countries from collapse. Media broadcasters have to be impartial in disseminating information to the public.

During an election, media are indispensable in offering voters' information on the various parties and candidate platforms. Based on the studies done by Galtung (1991), media are independent third estate actor which transmits information worldwide without fear or favour. It informs the world what is taking place in countries to facilitate action if need be. Galtung's view is applicable in democratic societies only. In situations where undemocratic practices are in existence, it does not allow the independence of media. Instead; the media is used to undermine opposition parties. Cases have emerged from countries like Zimbabwe, Somalia and Swaziland. Most African countries still do not have free and fair media especially during campaign periods and even in Election Day.

Free and fair media enable the voters to be well-informed and make wise decisions. In a democratic state, the media ought to be reliable, trustworthy and share diverse unbiased information (Amutabi, 2009). In most of the African countries, media stations are not reliable and trustworthy but they are easily manipulated and controlled by governments in power. As a result they become biased when disseminating information thus leading to conflicts and violence. In essence, most media stations in Kenya have standards, codes of conducts, and editorial ethics that underline and promote these values. In some cases, however, where the media is controlled by the government or the rich in society, these standards are not observed in the letter (Amutabi, 2009). This is true because media is used by those in power to pursue their interests. The codes

of conduct or rules are manipulated for their benefit. The media houses owned privately in some countries are threatened to do according to the wishes of those in authority or they compromise for the sake of enriching themselves thus going against the wishes of the citizens. As expected, politicians will do anything within their power so long as they win elections or occupy the power vacuum.

Government bodies such as the electoral commission, the judiciary and the police can be overwhelmed by these politicians' tricks of winning elections using the compromising media. These efforts by the politicians can be extreme in that they undermine efforts for achieving democracy and abuse human rights at times (Amutabi, 2009). This is applicable where democracy is compromised but where pluralism and the rule of law are upheld, they perform their functions independently without interference from the government and the politicians will not have a chance to use their tricks for their gains and this minimises polarization of violence.

However, since genuine voters demand free, honest and fair elections, the media comes in as a watchdog (Amutabi, 2009). The media can also best perform this function due to their ability to reach a wide audience. Despite the influence of politicians to win elections at all costs, media facilitates the dissemination of information to a wider audience freely and fairly in a democratic society. According to the findings of this study, some media houses disseminated free and fair information to voters but some were not fair enough to pass the true information fuelling general election violence.

The Kriegler report of 2008 found out the controversial official announcement of the presidential results via KBC of 2007 General Elections and the swearing-in of the president was broadcasted live by KBC, which was unacceptable to some Kenyans. Much of the criticism of KBC has arisen not just from its former monopoly status but also because of its strategic position as the only broadcaster covering virtually the entire country and its failure to make a clean break with the

past. The station has been reluctant to act independently and, since it is a creature of the political establishment, its management, operations and funding have been at the mercy of the government.

Currently, KBC is one of the media with wide coverage in the country, this includes Citizen, Kenya National Television (KTN), Nation Television (NTV) and many others that can reach a wide public. According to the IREC (2008) even though the leading newspapers, television and radio stations were not openly biased for or against any of the candidates, there were evident preferences shown by the tilt they gave in favour of or against the candidates and their campaign issues. This is true because even today, media stations, as much as they try to be impartial in disseminating information on party politics, there is always a preference for one party over the other and this could be based on similar ideology or the tilt from the owner of the media station. This was seen in the 2007 post-election violence where the media played a minimal role in fuelling election violence.

The banning of live media coverage after the announcement of presidential results, for instance, was perceived as suspicious, wrong and provocatively high-handed. As election results started trickling in, the stations competed with each other to be the first to announce the results from various constituencies. Some stations relied on unspecified sources to broadcast and announce results ahead of the Election Commission of Kenya.

The media, therefore, inform the public of illegal activities and corruption, violation of human rights and rules of the election process. If media works for the politicians, then they cannot expose these mishaps (Amutabi, 2009). The media therefore must be familiar with the election process, and be able to anticipate any possible mishaps as well as mitigate them by exposing these activities to public criticism. In this case, media may favour those politicians in power and undermine those in opposition creating animosity among the followers. This enmity builds up and

explodes during general election period. Thus media can be a powerful instrument; however, if not used well it can perpetuate general election violence.

### **2.2.7 Culture of violence and impunity**

Cultures of violence and impunity are major characteristics of politics in conflict and post-conflict societies in Africa today. A culture of violence is a system of norms, values or attitudes which permit, make possible or even stimulate the use of violence to find solutions to any conflict or relation with another person. Impunity is the exclusion of those people who commit unlawful acts from accountability and legal punishment. Under a culture of impunity, “government officials, the police and military, and ordinary citizens break the law without fear of punishment, for there is a shared understanding that each person will be silent about the other’s abuses as long as the favor is returned (Crocker, Major & Steele, 1998). This is very common in most of African countries where political leaders rise to power through democratic means but, once in power, abandon pluralism and protect their close associates even if they have committed crimes. They end up amending the constitution to suit their interests. This is done to fulfil the promises of the strong financiers during campaigns when leaders rise to power with the promise of protecting their wealth or positions in government.

It is strongly believed that a culture of electoral violence is an outcome or a legacy of past violent conflict (Hoglund 2009). This is not true because countries that have no records of past violent conflicts have experienced violence in the recent past such as Kenya which got involved in serious violence in 2007 post-elections over presidential disputes while in the past it has experienced rather slight skirmishes during the past elections.

Such a culture prevails in societies that have experienced political violence for prolonged periods and make violent acts of state and non-state actors such as threats, coercion and intimidation

acceptable and tolerable at societal as well as individual levels (Hoglund, 2009). Hoglund's findings on the culture of violence are only common in countries that have experienced prolonged conflicts such as Sudan or Zaire in West Africa. In such cases, violence has become a norm in everyday life. This is not prevalent in Kenya because the violence experienced in the past and especially the 2007 post-election violence which exploded after the announcement of presidential results took the shortest period and was controlled before it prolonged.

The traumatic experiences of torture and other atrocities in the past, by these societies have made them to live in fear of insecurity even after the end of such conflicts (Sisk, 2009). The author has further given the consequences of conflict which make people live in fear and insecurity even after the end of violence. The situation in Kenya is not similar because after the election violence, fear and insecurity lasted for a shorter period and the victims generally after guidance and counseling resumed their normal way of life. Measures have been put in place by the government and NGOs to bring communities together to live in harmony. In a scenario where people have suffered losses, they tend to take a different approach to avoid the repeat of the same. Fear and insecurity ended when the communities in conflict decided to peacefully co-exist.

Some factors contribute to the persistence of both cultures of violence and impunity in post-conflict societies. One of these factors is the weakness of state institutions (Hoglund, 2009). State institutions become weak if they are not entrenched well in the country's constitution or lack political will from those in power or leadership. The same idea is advanced by Jarstad (2008) who observes that in societies where government institutions at a national and local level are mostly unaccountable, non-transparent, politically partial, and financially unstable, there is room for cultures of impunity. This happens when the leadership in power compromises the situation because they want to make the environment unworkable therefore allowing them to manipulate the institutions and thus fall short of the required legitimacy and resources to manage widespread

violence (Høglund, 2009). It does not mean that the government falls short of resources to contain violence but they do it purposely to benefit from it.

Sisk (2009) shares the same sentiments as Hoglund (2009) that when elections are held under such context, governments usually fail to avoid fear and ensure security among their citizens. Some authoritarian governments, remain sluggish while dealing with security challenges and instead exploit the situation to achieve their objectives.

Moreover, in societies where patronage politics is prevalent, security forces and judiciaries often encounter coercion and manipulation from political elites which in turn hinders them from becoming efficient instruments for resolving conflicts (Hoglund, 2009). In a patronage society, those entrusted in charge of security forces and judiciaries are not manipulated but take advantage of what comes out of the system by either enriching themselves or gaining popularity. Instead of executing their duties, they compromise with those in power to get a share from the institutions. Those who benefit most are those occupying high offices at the mercy of the junior officials who are manipulated and threatened.

The other contributing factor to such culture is the use of violence by state agents (Hoglund, 2009). The governments use state agents either to quell violence or instigate violence. When the state is benefiting from it, they use force through the security forces. When the government in power experiences imminent loss of popularity, they suppress the use of security forces. As a result of the government using security forces to advance violence, the security apparatus of the state such as the police and armed forces commit large-scale human rights violations at the national level and local officials also ensure the perpetuation of such violence at the lower levels (Høglund, 2009). The security apparatus sometimes are seen to be perpetuating violence as happened in Kenya in 2007 post-election violence as indicated in the findings of the study. There



were extra-judicial killings by the police forces on the public but those who were involved in killings faced the wrath of the law.

Such arbitrary and violent measures may also encourage sections of society as well as non-state armed groups to continue using violence as a viable means to resolve conflicts (Steenkemp, 2005). The views by Høglund on security agents have been advanced by Steenkemp that other non-state actors are likely to adopt the culture of violence. For instance, gangs and militias regroup and get funding from people who are out to protect their interests. Illegal groups are used to instill fear and insecurity among the electorates. When the state cannot give jobs to the youths and improve the economy of the people, the unemployed can easily be enticed by the leaders who want to pursue their interests through dubious means.

The researcher shares the same idea in that political parties use their supporters to instill fear among members of other competing parties. This happens if the parties have their supporters from the same region or area thus political parties may employ violence as a means of achieving various political objectives (Mehler, 2007). In the General Elections of 2007, the two opposing parties used their followers to instigate General Election violence resulting to the loss of many lives and property and left many people internally displaced from their original homes. In most African countries, political parties use ethnic groups to advance their interests. The issue of region or area does not apply to areas which are cosmopolitan in their composition. For example, what happened in the past election violence, the 2007 post-elections, violence occurred in cosmopolitan areas.

Out of fear of losing public support, political parties may also refrain from punishing the culprits of electoral violence (Høglund, 2009). When politicians use political parties to perpetrate violence, in most cases, they go unpunished. The party leaders will fear losing them to different parties or destabilizing the party. They tend to avoid the political culture where when one is punished, it becomes a weapon by the community where the culprit comes from; creating a

tendency of the community believing that one of their own is being punished for no reason. The other groups become opportunistic to lure those who are financially stable as members of their parties.

Since the advent of multi-party politics during the 1990s impunity has been a key factor leading to the incitement of violence around elections. These included growing politicization and proliferation of violence in Kenya over the years by politicians to obtain power undemocratically. This is elaborated by reports of various committees investigating the clashes became replete with incidences pointing to state complicity (NCCCK, 1992, 2001; NEMU, 1993a, 1993b). It took the government eight years to set an inquiry into the root causes of violence and when the inquiry was finalized no action was taken to dispense justice. The decision not to punish perpetrators has led to a culture of impunity and a constant escalation of violence.

This has happened in Kenya severally where commissions have been formed to look into atrocities committed. An example is the Ndung'u Report (2013) where the report was not adopted and implemented as expected. Similar commissions such as the TJRC have been established to look into related issues but their findings have neither been made public nor dealt with. In addition, there has been a failure to hold accountable those responsible for past human rights abuses, including the ethnic clashes of the 1990s under Moi regime, abuses under the Kibaki presidency, and land-grabbing and economic crimes partly in Uhuru era, despite the naming of many senior politicians in successive enquiries.

### **2.2.8 Patronage and identity politics**

African leaders have a propensity to use state power and institutions to promote their interests or those of their ethnic groups (Nyong'o, 1993). Leaders generally mobilise their supporters based

on regional and ethnic affiliations for their interests but while in power, they forget about all the promises they made to the electorates.

Hyden (1997) further emphasises how state power is achieved. It is through intimidation, violence and other forms of terror against both real and imagined enemies. The violence in Kenya must be seen as a reflection of the major concern of African leaders, whose primary aspiration is to capture and retain state power at all costs. The objective of violence is to maintain the political and economic status quo in the region during the run-up to the General Elections in 1992 and 1997 in Kenya. This is true because, at the advent of multi-party politics, leaders were more concerned about how to retain state power and their interests.

In the African context, political power is considered as a major social good because those who hold it, also have a significant control over a variety of other social goods (Fortman, 1999) therefore violence becomes inevitable, when elections pose a real probability for transforming the prevailing power configurations. This scenario by Fortman and Sisk reflected what took place in Kenya during the advent of multi-partism. The government in power was not ready to embrace competitive politics. In 2007 post-election violence became inevitable because the results could have posed a challenge in the power configurations.

The stakes in the Kenyan political system are high. A 'winner takes all' political system means that political contests have become all the more charged because of what is at stake; those who achieve political power benefit from widespread abuses including impunity for political manipulation of violence, criminal theft of land, and the corrupt misuse of public resources – indulgences which occur at the expense of groups who are out of power. The vehicle for electoral success is support from regional ethnic power barons who are in turn rewarded with opportunities and patronage. Public office is seen by many as a means for the political elite to access state

resources, 'privileges and opportunities for predatory behaviour (Njuguna, Musambay & Williams, 2004).

Kimenyi (2005) has noted that the motivation behind electoral violence is to influence voting in favour of the incumbent. This is demonstrated by what took place in Kenya's general elections of 1997. This was the weapon used to retain the ruling party KANU in power and to instill fear among the electorates against the multi-party politics which had been put in place. The then government in power used it to influence the electorates that the country was not mature for multi-party politics because it was feared that it would create divisions among citizens. In the run-up to every General Elections there have emerged sporadic clashes in areas which have been identified as hot spots areas.

Competitive elections are more prone to conflict and violence in post-conflict societies due to the stakes involved in such elections (Høglund, 2009). In competitive elections where two parties have almost equal numbers in terms of electorates there is a high possibility of violence. Each party expects a lead as determined by different opinion polls towards elections. The opinion polls which are not genuine or which favour some party are likely to mislead the electorates thus contributing to heightened tensions and subsequently leading to election violence. On the other hand, genuine opinion polls give a clear direction to parties. It prepares the parties to accept elections results. The close competition contributed to violence in the 2007 post-election because the opposition felt that they were rigged out considering the opinion polls.

Since holding public office is considered an important means of exerting substantial influence to secure benefits from other spheres, politicians of electoral authoritarian regimes may resort to stealing elections (Thompson & Kuntz, 2006). This is not only applicable in the authoritarian regimes as suggested by the author but it is common in most democratic societies in Africa. Further, fears of future legal prosecution in connection with alleged economic crimes and human

right abuse motivate them to maintain their political office by any means (Thompson & Kuntz, 2006). This can be elaborated by the Gambian president Yahya Jammeh who seized power claiming the former government was chocking in corruption, nepotism, abuse of office and excessive power had initially accepted defeat, but changed his mind shortly after and extended his stay by another three months (Wafula, 2017). Wafula further said, “he boarded a Falcon jet on Saturday night on his way into exile after emptying state coffers, stealing more than sh.1.1 billion and flying out luxury cars” Most leaders in Africa want to avoid future legal prosecution but to continue being in control of power and resources by either extending their terms forcefully through the change of their constitution.

Marginalised groups who have gained less from the political competition than their expectations may opt for violence as a viable means to realise their new demands. The author's view is contrary because in most developing countries, marginalized groups are swallowed by bigger parties. They are lured to join them in exchange for getting a share of the national cake. They are given senior positions in government in return. In Kenya, minorities have not resorted to violence as a means to realise their demands but instead join large ethnic groups to pursue their interests. This is because in a democratic society, the tyranny of numbers counts, you are either in or out. Thus, losing an election does not always result in violence, but the defeated can join the ruling party as happened in the 2007 post-election violence when the Wiper party joined the government of Kibaki and became the vice president of Kenya.

In patronage and identity politics, those who hold political offices enjoy greater control over various economic resources and public services and distribute these resources and services to their clients or ethnicities in return for political support (Sisk, 2008). This is true because in undemocratic societies everything is done based on patronage. In situations where democracy is practiced, it limits the misuse of power to a clique. The stakes of winning and losing a political

office become extremely high within the contexts of patronage and identity politics (Sisk, 2009). Mostly electorates vote based on their close associates and ethnic affiliations which is rampant in African societies. In Kenya the mentality of voting for your own to benefit from the national cake is evidenced from the general elections held since the advent of party politics. The ethnic groups with the tyranny of numbers shine at the end of the day. Democracy endorses tyranny of numbers so long as it follows the democratic means of exercising election rights. This creates a feeling of marginalization among the minority groups.

Further the author emphasises the risk of election related violence that it is also high in situations where poverty and unemployment are rampant (Sisk, 2009; IDEA, 2009). In countries with high poverty level, incidences of election violence are common. During the election period, politicians take advantage of the situation by luring the electorates with small handouts in exchange for their vote to an office. Marginalisation leads to poverty and unemployment where people blame the government in power for denying them jobs and being responsible for unfair distribution of resources leading to discontent. Sisk's view is correct because those in power enjoy economic resources at the expense of the entire populace.

For ruling parties, political elites and their supporters, losing political office via competitive election means losing their patronage network and jeopardizing their livelihood as well as that of their followers therefore they resort to violence to avoid such threats and maintain their status quo (Sisk, 2008; Høglund, 2009). The author's view is relevant to most developing countries thus patronage and identity politics play a crucial role in electioneering period. Issues of controlling office by close affiliates is thought to be the only way to access resources and other benefits.

Further, opposition parties, marginalised groups and their followers who are prevented from winning political posts via competitive elections may consider violent alternatives to assume state power and resolve longstanding grievances (Sisk, 2008; Jarstad, 2009). The authors' views are

contrary to what is taking place in the democratic countries. In a situation where the rule of law is upheld, those who feel disadvantaged resort to legal means to find solutions to their grievances but they can resort to violence which is not acceptable. Even resorting to violence by marginalised groups may not have forceful impact unless supported by the international community.

According to the Kriegler report in its findings of 2007 General Elections violence, the power of the President and the political class, the perception on the part of the public is that everything flows not from laws but from the President's power and personal decisions which has led the public to believe that a person from their own tribe must be in power, both to secure for them benefits and as a defensive strategy to deny other ethnic groups, from taking jobs, land and entitlements. All of these have led to acquisition of presidential power being seen both by politicians and the public as a zero-sum game, in which losing is seen as a hugely costly affair and is not acceptable.

Hence, there is a tendency on the part of different political actors to do anything, including engaging in violence, to obtain or retain political power. This has created a climate of fear and suspicion which politicians easily exploit and use to mobilise violence. Fears over rigging of the 2007 presidential results were a culmination of these tensions (Kriegler Report, 2008).

### **2.2.9 Political mobilisation**

In most of Africa, it is strongly believed that holding multi-party elections aggravates prevailing tensions within the society (Sisk & Reynolds, 1998) and heightens the propensity for the outbreak of violent ethnic conflict (Sisk, 1998). This was prevalent in Kenya during the emergence of multi-party politics in 1992 but it is contrary to my opinion because in a truly competitive democratic society, multi-party elections give freedom to the electorate to choose leaders of their own choice. In democratic societies, many parties give the electorate the opportunity to make

choices based on parties manifestoes. Such freedoms demonstrate maturity of democracy. According to the author, one of the justifications forwarded for this is related to the way parties are formed. In most cases, political parties are mainly organized on ethnic identity in view of the way political support is secured during elections.

In Kenya, just like many other sub-Saharan countries, the state control over the economy is deeply entrenched and the premium for controlling political power is so high that political parties and ethnic groups are willing to pay whatever it price to acquire or have meaningful access to the state (ICJ, 2000). This is reflected in how leaders influence their communities to vote for their own which has created a culture of belongingness. In times of campaigning, leaders calculate their votes based on their ethnic numbers and this creates ethnic competition against democratic considerations where leaders are supposed to be determined based on the issues. In the long run, this may spur animosity and subsequently lead to election violence. In the 2017 elections, every party is struggling to get the electorate numbers. The scenario is that every leader from different communities should go to their communities for votes.

In most African countries, both ruling and opposition political parties use violence (Mehler, 2007). Most African countries prefer to use violence either to suppress the opposition or to gain sympathy. Laakso (2007) alludes to the same idea by emphasizing that opposition groups employ violence to express their grievances over the electoral process or outcomes and ruling elites take arbitrary and suppressive measures against their political opponents due to deep-seated fears of losing political power. This is done through manipulating the institutions like judiciary to suppress opposition. It is manipulated in such a way as to favour the ruling party or the government. The result makes the opposition comply with the outcome. Adivilah (2009) says that such problems become more prevalent in times of competitive multi-party elections and impede efforts to



promote human rights, respect and entrench democratic governance in these societies. This happens especially if competition is stiff.

Political mobilisation causes violent conflict in post-war societies. In these societies, conducting competitive elections renders opportunities for generating conflict and violence through increased polarisation (Hoglund, 2009). This happens when leaders mobilise their supporters in view of past incidences. Hoglund's view has been elaborated by Jastard (2008) on how politicians use past violent incidences to show their differences with other political parties. During competitive elections, competing political parties emphasize mainly what makes them distinct from others and tend to mobilize political support along lines of differences (Jarstad, 2008).

The researcher's opinion is contrary to the author's because in Kenya, parties do not even campaign based on any new or unique item. They campaign on the same platforms promising the electorates that once in power they will deliver on the promises made to them. This explains that parties should instead be campaigning based on issues but not to win support as a result of ethnicity or patronage affiliations.

In the course of an electoral campaign, political elites and radical groups forward exclusive nationalistic and ethnic appeals to secure political support which further polarize the society and consequent outbreak of violent conflict (Reilly, 2002). This is true because in majority of African countries which have been in conflict during elections, polarilization using ethnicity has been a factor contributing to election violence.

In addition, the author emphasises that extreme nationalistic or ethnicized rhetoric worsens existing tensions between political opponents and foments hatred among different ethnic groups (Reilly, 2002). The views of the authors go hand in hand with how polarization contributes to conflicts. Politicians employ terminologies used for military purposes such as "strongholds",

“citadels”, “cadres”, “strategies and tactics” and “the parties wage campaigns” to secure wider public support (Hoglund, 2009).

This is true in respect of what takes place in Kenya during the last general elections. In every general election, terminologies such as KANU zones, ODM zones, PNU and majorly ‘stronghold ‘zones have been common in Kenyan politics. This creates fear among other parties to campaign freely in those specific areas. Such activities also show the extent to which political rights are used for wrong purposes and competitive elections intensify prevailing social and conflict cleavages.

In addition, Collier (2009) also emphasises on politicians using ethnic identity as a viable means of mobilising political support in times of elections. The researcher concurs partly with the Collier because it has been the trend in Kenya since the beginning of multi party politics in 1990. On the other hand, even in situations where parties have a combination of many different groups but with common ideology, they come together to win political power and have had a tendency of election violence. This idea has been advanced by Mehler (2007) who emphasises on cases where political parties representing diverse ethno-regional interests have resorted to violence, after realising that they are losers of the electoral process and its outcome.

The author’s view is relevant in what took place in 2007 general elections in Kenya. ODM party was representing diverse ethno-regional interest which resulted in 2007 post-election violence. Because of the dissatisfaction of presidential results, Kenya faced a serious election violence which had never been experienced before. The lessons learnt from these views teaches that violence does not only occur as a result of voting based on ethnic identity but even in a multi-ethnic party system, elections violence can occur because of other factors; which means ethnic grouping is one factor among many other factors.

Opposition party leaders and sympathizers frustrated by the injustices of the electoral contest as well as other political forces that were subjected to systematic exclusion from the political scene may consider violence as an alternative to achieve their political goals (Sisk, 2008). Most societies today instead of resorting to violence because of injustices done by the electoral process, resort to using other means like a legal system to address their grievances. This was applied in Kenya in the general elections of 2013 when the presidential results were disputed by the opposition under the CORD party headed by Odinga. They resorted to legal means to resolve their grievances and the final verdict was given by the Kenya Supreme Court. In this case, Uhuru Kenyatta won the presidency. The outcome did not satisfy the opposition party but because they respected the rule of law, they had to abide by it.

#### **2.2.10 Close competition**

According to Fortmann (1999), electoral violence erupts particularly in situations in which elections provide an opportunity of changing existing power relations. This is because politicians with ‘close races’ have strong incentives to cause violence. More specifically related to electoral violence, it has been argued that in electoral systems where a small number of votes can make a big difference on the outcome of the election, violence is more likely to occur (Reif, 2005). It is not true in most cases where we have had such competitions in the developed countries such as USA. Competition is healthy and they have accepted results without violence despite disagreements out of close competitions.

In some countries in Africa, violence has occurred because of stiff political competition with very close margins. In Kenya, before the Election Day in 2007, polls revealed that PNU party and ODM party had very close margins as revealed by the media during campaigns. Opinion polls sometimes reflect stiff competition by different competing groups if it is done in a transparent way. Biasness in opinion polls could easily lead to election violence.

This was the situation in Kenya in 2007 during campaigning period. The opinion polls reflected close competition between Kibaki and Odinga who were competing for the presidency since the beginning of the campaigning period. The outcome of perceived close race may have contributed to disputed elections. The circumstances arising out of this made it difficult to determine a clear winner where comments made by the Late Election Commissioner Kivuitu and Kriegler in his report on election reforms in Kenya, that there was no clear winner in the presidential race of 2007. Therefore, based on the studies done, close race competition between presidential candidates had a higher probability of causing election violence. This has happened elsewhere thus the researcher sought to find out if it had the same implications in Kenya during the 2007 post-elections violence.

### **2.3 Challenges of Electoral Management on Interethnic Relations in 2007 General Elections**

The challenges of electoral management practices in Uasin Gishu and Trans Nzoia counties may not be isolated from the main stream challenges of the national practices. The system and sub system approach informs that both are interrelated and interlinked therefore the literature reviewed highlights the challenges affecting electoral management in the electoral systems internationally, nationally and to the grassroot levels in Trans Nzoia and Uasin Gishu counties respectively

Singer (1961) affirms that in any study of scholarly inquiry, there are always several ways in which the phenomena under study may be sorted and arranged for purposes of systemic analysis. Whether in the physical or social sciences; the observer may choose to focus upon the parts or the whole, upon the components or the system. He may, for example, choose between the flowers or the garden, the rocks or the quarry, the trees or the forest, the houses or the neighbourhood, the cars or the traffic jam, the delinquents or the gang, the legislators or the legislative, and so on.

Whether he selects the micro- or macro-level of analysis is ostensibly a mere matter of methodological or conceptual convenience. Lines of inquiry may take different dimensions to arrive at conclusions in social sciences, either in part or on whole. The analysis chosen may produce outcomes that largely help in linking the system and the part.

In an earlier writing which seems an agreement to Singer's later writing, Boulding (1956) pointed that; in the vernacular of general systems theory, the observer is always confronted with a system, its sub-systems, and their respective environments, and while he may choose as his system any cluster of phenomena from the most minute organism to the universe itself, such choice cannot be merely a function of whim or caprice, habit or familiar it. This study cognizant of this argument by Singer, takes electoral management practices at Uasin Gishu and Trans Nzoia as part and parcel of the larger system of elections conducted then by Electoral Commission of Kenya (ECK).

### **2.3.1 Electoral challenges on the process's acts**

By flashing into Kenya's electoral acts, there is a marked reality that electoral process in Kenya has evolved since the first General Elections held at independence in 1963. At the same time, the Kenya Independence Order-in-Council created the first Electoral Commission with the Speaker of the Senate as Chairman (IED, 1997). In 1991 after the repeal of section 2 (a) of the Constitution, Kenya reverted to a multiparty state in 1992 and the Electoral Commission of Kenya (ECK) was established (IED, 1997).

In his writing on management processes challenges, Kotter (1996) asserts that no matter what hierarchies of management are in use; traditional hierarchies and management processes can still do very well, what they do not do well is identify the most important hazards and opportunities early enough, formulate creative strategic initiatives nimbly enough, and implement them fast enough. Kotter's argument could not realise that changes that occur in organisations and

institutions are likely to have effects to their operations and practices in both traditional and modern hierarchies and management. In many cases, such as in political environments where an election is involved, change of systems often requires an overhaul of processes and practices. The rationale can be good because the outcomes desired are idealistic yet this might not be the case. It is against this backdrop that Kotter emphasises the merits of traditional hierarchies and management processes.

Following the contested results of the Presidential elections in 2007 and the resultant post-election violence, a National Accord Implementation Committee (NAIC) was established. This led to the establishment of the Independent Review Commission (IREC), popularly known as the Kriegler Commission to undertake the exercise. The IREC recommended a new or transformed ECK with a lean policy-making structure and a professional secretariat. IREC also recommended a review of the entire constitutional and legal framework in line with the political and legal aspirations of Kenyans. The Electoral Commission of Kenya (ECK) was disbanded by the 10th parliament in 2008 and replaced with the Interim Independent Electoral Commission (IIEC). The IIEC was formed with the mission to institutionalise a sustainable electoral process that would guarantee free and fair elections. Under the dispensation of the new constitution, there was a provision for the establishment of the Independent Electoral and Boundaries Commission (IEBC), headed by a chairman and nine commissioners to succeed the IIEC (Nkari, 2014).

Owuor (2013) views the big picture of electoral challenges and gives it a historical dimension which is consistent with Kriegler's opinion. The clamour for comprehensive Constitutional Reforms in Kenya was dominated by the need to put in place a mechanism that could guarantee free, fair, transparent and credible elections (electoral reforms). This reality was informed, by the political and electoral environment that had been in place since Kenya attained independence in 1963, and persisted throughout the multi-party dispensation (1991-2010). Thus, the Electoral

Reforms provided the single most overriding impetus for constitutional reforms in Kenya. Election Management and Administration were at the core of the failure that was noted in the disputed 2007 elections and constituted the main trigger for 2008 post-election violence.

Finally, Owuor (2013) affirms that Kenya has held four General Elections since the restoration of multi-party democracy in 1991 which from the standpoint of democratisation, brought out one telling fact: Those periodic elections, are not by themselves a guarantee for sustainable democracy since there are other factors. There is need for sound constitutional, legal and administrative reforms and institutional framework that provide strong pillars to anchor and consolidate democratic gains. He opines that, objectives of a sound and workable legal framework for elections should encapsulate the following principles: secure the integrity of the process, provide mechanisms for fair competition, adequate guarantees of the secrecy of the votes, and ability to arbitrate over competitive elections. In his view, the enlisted issues which he provides mitigations for are the core challenges that ought to be fixed in electoral management practices.

The multi-faceted electoral management practices also surround the system of politics in place, and this has to do with democracy as a whole. Is it understood by all very well, or do many people talk and tend to practice what they don't understand. Research emphasises that, to many people, democracy is a substance of national practice and not for local or remote application. This is why achievements at the institutional level and sub-units of institutions continue to encounter major deficits, not to say that many too do not emanate from the institutional headquarters. Despite this reasoning, what takes place centrally affects the decentralised units greatly. In place of 2007 election violence, Uasin Gishu and Trans Nzoia counties find themselves at the periphery of a bigger institution as far as election management is concerned. The effects of the same violence and challenges locally may not entirely be linked to the central electoral management but they would be linked in a way. The election itself is a democratic practice whose outcome attainments

depend on how it is practiced at any level of institutions concerned. It is contrary to (Sean & Scott, 2012) argument that the electoral management body (EMB) that is supposed to supervise, administer and manage free and fair elections fosters trust in the electoral process and improves the prospects of democratic consolidation.

Khan (2014) argues that among other things, much of the institutional failures (dwindling rule of law, endemic corruption, lack of transparency and accountability etc.) of democracy in Bangladesh are attributable to a range of factors, but most prominently the poor quality legislative leaderships that emerged from the alternating government/opposition governance nexus - since 1990. Whereas institutional impacts of democracy concern issues like transparency and accountability, corruption, law and order, security and human rights, among others. In relation to these, impacts of democracy, it is argued that while developmental impacts are nevertheless important and some tend to also argue that development can happen even without democracy, it is the institutional aspects of democracy which are regarded as crucial for the long-term sustainability of both the democracy and even the developmental impacts of it. However, while evaluating these impacts, it is also important to consider the issue of interplay of various actors and institutions that contribute to the quality of democracy.

This view is supported by Isma'ila and Othman (2016) who affirm, it means one thing to conduct an election and make a transition to democracy or even conduct regular elections for years after the transition. It also means another thing to have a credible election that is generally accepted as free and fair by citizens and the international community. Acceptability of election results by stakeholders would therefore increase the chances of consolidation of democracy and reduces electoral challenges. "Scholars seeking to define and categorise practices that undermine the electoral process, have generally used one of two basic approaches, which we have termed inclusive and restrictive" (Vickery & Sein, 2012, p. 3). Isma'ila and Othman (2016) suggestions



are conceived inclusive (fraud, malpractice and manipulation) to be as broad as possible, no matter the imprecision. Some writers in this category situate their definitions normatively, finding that electoral wrongdoing violates domestic norms or internationally accepted standards for free and fair elections. Restrictive approach focuses only or mostly on the letter of the law (i.e., fraud can be identified by whether it violates existing domestic legal provisions). This enables a context-specific approach to combating various kinds of electoral wrongdoing, and it makes obvious sense for the election management body to use a country's domestic laws as benchmarks in its fraud or malpractice control activities.

### **2.3.2 Registration of voters and the maintenance of voter register**

The voter registration exercise is the process by which eligible persons are listed to vote. According to the 1963 and 2010 Kenya constitutions, only those above 18 years are eligible to vote as voters. The voter registration exercise is a crucial and indispensable process in electoral management practices. In most democratic societies, only those who are registered to vote ultimately participate in Election Day. For compelling reasons, voter Registration has attracted substantial investments in the lead-up to the 2013 General Elections in Kenya. The recommendations of the Kreigler Commission Report which emanated from 2007 post-election violence necessitated a fresh voter registration. Presumably, not for the sake of getting a new voter's register but to premise voter registration on the higher principles of accuracy, verifiability and the principles articulated in the Constitution (Owuor, 2013). Article 38 of the 2010 Kenya constitution guarantees political rights and entrenches participation in elections and voter registration as a fundamental right; the effectiveness of all rights contained in Article 38, namely: the right to form, participate and campaign for a political party, the right to free, fair and regular elections, and the right to vote in an election or referendum, is firmly anchored on voter registration. Article 83 also deals with the criteria or qualification of voters and sets out enabling

and disabling criteria to be registered as a voter. These are key factors that should be put into consideration in Uasin Gishu and Trans Nzoia counties.

Electoral malpractice has been categorised into three types, pre–election, election period and post-election period (Norris, 2012). According to Birch and Allen (2010), electoral malpractice entails the manipulation of rules, the manipulation of voters and the manipulation of voting. By manipulation of rules, electoral laws are distorted to favor one party or contestant in an election. For example, when the rules administering candidacy prevent certain political forces from contesting elections, or when large sectors of the adult population are excluded from voting. The manipulation of voters is either to distort voters’ preferences or to sway preference expression. The first one involves illicit forms of campaign tactics that are deceptive and that violate campaign finance laws or severe bias in media coverage of the election. The second form consists of alteration of how preferences are expressed at the polling station, through vote-buying or intimidation in the aim of increasing the vote of a specific political force. Voting manipulation consists of electoral mal-administration, such as ballot box stuffing, misreporting, under-provision of voting facilities in opposition strong-holds, lack of transparency in the organization of the election, bias in the way electoral disputes are adjudicated in the courts, and so on ( Birch & Allen, 2010 ).

Olawole, Adewunmi, and Oluwole (2013, p. 11) assert, the “Right to vote is rather a public function conferred upon the citizen for the reason of social expediency”. There is a strong relationship in Africa’s electoral malpractices “with the type and forms of historical system practiced by each society, coupled with the class structure, social stratification, aestheticism and religious differences. Democratic consolidation addresses the concern of strengthening or otherwise political institutions such as political parties, legislature and electoral umpires. It deals with governmental administration in relation to accountability, transparency, constitutionalism,

rule of law and bureaucracy. It encompasses the understanding of the acceptance and obedience of formal and informal institutions of democracy (Manesh, 2013). The predicaments of the practice of democracy in the fourth republic have threatened its consolidation; hence it is characterised by the bane of democratic governance. The implications of these, therefore, manifest in issues such as disrespect and outright violations of electoral acts with impunity due to weak democratic institutions, electoral violence, ethnoreligious politics, rampant corruption and mismanagement, poverty and lack of internal democracy which is visible in incumbency factor, godfatherism and excessive monetization in politics (Egbelubem, 2011).

### **2.3.3 Generated conflict issues in electoral management**

According to Elekwa (2008, p. 30), “the electoral process relates to the entire cycle ranging from the provision of voter education to the dissolution of the National Assembly”. Akamere (2001), the electoral process refers to all the activities and procedures concerned in the election of representatives by the electorates. It refers to all the pre and post-election activities without which an election is meaningless. These include the registration of political parties, review of voters’ register, delineation of constituencies, resolution of electoral disputes, return of elected representatives, and swearing elected representatives. In addition, the electoral process is the rules that guide the conduct of elections, and important activities that make up an electoral process. Any conduct that threatens the electoral process is a subversion of the people’s sovereignty. The electoral process has been marred with conflicts generated by ethnic chauvinism, sectional interest and religious divide, malpractices, violence from the political class to outwit one another in pursuit of their parochial interest and this makes the process undemocratic.

As stated by (Okechukwu, 2014), security challenges for the electoral process in Nigeria are akin to challenges that bog electoral practices in Uasin Gishu and Trans Nzoia counties in Kenya. The quest for power in Nigeria among political actors has resorted to acts capable of breaching security

and peace. An assessment of election history in Nigeria reveals that the quest for credible elections in Nigeria had been marred by political assassination, political thuggery, ballot snatching, intimidation, and arson.

Whereas it is generally believed based on many reports including Kriegler and Waki reports already mentioned, the electoral management practices challenges in Uasin Gishu and Trans Nzoia counties jurisdictions now but then districts of the Rift Valley, fell into a trap of a political pattern that had long been desired by many.

Further, the division of responsibilities between the EC and the judiciary over electoral complaints or challenges has a direct bearing on the nature and type of pressure to which the EMB is subjected. An EMB with all-encompassing authority to determine electoral complaints has a high degree of control, but such an arrangement also subjects the institution to high levels of political pressure. Dividing the responsibility with the judiciary takes some pressure off the EMB, but makes a vitally important component of the electoral process subject to the influences of another institution. In Ghana for example, ‘the EC has established a reputation for efficiency and credibility, but the judiciary’s processes have been described as ‘cumbersome and slow’ (Debrah *et al.* 2010, p. 6). Despite these criticisms, the arrangement appears to have been to the benefit of the EC, by providing an outlet for some pressures that might otherwise mount. Also, the EC’s effective efforts to manage its institutional image have ensured that voters correctly assign responsibility for key decisions. Nonetheless, in Uasin Gishu and Trans-Nzoia counties is not exceptional from subjects of the institution and political pressure.

In terms of the integrity of the electoral process, of the method of appointing EMB members, there is still a major stumbling block to efforts in strengthening the independence of EMBs and protecting them from interference by the executive and the legislature. The problem is an apparent conflict of interest on the part of elective office-bearers should they attempt to introduce reforms

that might make EMBs independent of the partisan party and political control. To do so would run counter to the interests of such political figures, who benefit from the current weakness and dependence on EMBs and flawed electoral administration and management. In countries where EMBs are entrenched in the constitution the executive and legislature have sometimes used the process of enacting electoral laws to whittle down or frustrate the powers of EMBs. For example, Nigeria's Electoral Act of 2010 as amended, at sections 31(1) and 86(1) contains provisions that reduce the oversight and supervisory role of INEC in party political nomination processes. This is in apparent violation of the provisions of paragraph 15(c) of the Third Schedule of the Constitution of the Federal Republic of Nigeria of 1999 (Fall, Mozaffer & Schedler, 2012).

Security of tenure cases has occurred in which members of the EC have been removed from office arbitrarily despite constitutional and legal guarantees for their removal only through due process. In Nigeria in 1989 for example, albeit then under military rule, the chair and members of the EC were removed and the commission reconstituted before the expiration of their tenure. The chair and members of the reconstituted commission were themselves summarily removed in the wake of the annulment of the 12 June 1993 presidential elections. In 2011, under civilian rule, Nigeria's president ordered the chair of the *Independent National Electoral Commission* (INEC) to proceed on terminal leave about a month before the end of his tenure. In Sierra Leone, in 2007 the president removed two members of the EC in the wake of a crisis within the commission over the declaration of the results of the 2007 presidential runoff elections, without the due process provided for in the constitution. Similar interference had occurred earlier: in December 1964 the Sierra Leone People's Party (SLPP) government had removed an allegedly pro-All People's Congress member of the country's EC and moved to 'sanitise' the commission by removing staff whose loyalty to the SLPP was alleged to be in doubt. Also in 1992, the president removed members of the EC without due process (Fall *et al.*, 2012).

### **2.3.4 Costs of electoral administration and management**

The cost of elections and the proper management of their finances is a problem for EMBs in some countries. They suffer from chronic structural problems and budget deficits, and ‘rather than relying on the civil service, large numbers of temporary staff must be recruited and equipment purchased, often through a procurement process that must be conducted under extreme time pressures. In Benin, for example, ‘election costs increased exponentially ... causing some of the key players to question the reliability of election management by CENA’ (Jinadu, 2014). Apart from the operational costs of core election-related activities such as voter registration, voter education, constituency delimitation, the printing of ballot papers, purchase of ballot boxes and election-security management, there are the costs of electoral administration and management which Uasin Gishu and Trans-Nzoia are not exceptional. These include fixed costs such as in several countries where legislation provides for it – funding of political parties; salaries, emoluments and other entitlements of EC members and their bureaucracy; and administrative annual capital, operational and recurrent costs other than salaries of EMB members (Jinadu, 2014). ‘What is noteworthy however is that [election-related] costs per voter ... vary widely [among African countries], suggesting that a regime’s commitment to free and fair elections is another major commitment, as is the EMB’s relationship with the country’s executive, parliament and the ruling party, particularly in states lacking this commitment (Jinadu, 2014).

Data on election costs per voter in Africa are sparse and rarely up to date, making comparisons difficult. What information can be gleaned suggests that cost variations reflect the democratic environment: stable, transitional, authoritarian or post-conflict. Elections in countries with a longer multi-party democratic history are consistently less expensive per voter than those that are a novel undertaking – a trend that cuts across regions and levels of economic development. This is suggested by the range of per voter costs: Botswana \$2.7, Democratic Republic of Congo

(DRC) \$2.5, Ghana \$0.7, Lesotho \$15, Liberia \$6.1, Malawi \$2.1, Mauritius \$11, Mozambique \$6.4, Namibia \$1.8, Nigeria \$8.0, Senegal \$1.2, Seychelles \$5.8, South Africa \$7.3, Tanzania \$7.6 and Uganda \$3.1, In general, the cost of elections and prudent management of finances are major issues for most EMBs and the challenge remains of how to rationalise expenditure to reduce election costs where resources are scarce. According to the Institute of electoral democracy (1997), part of the ECK's problem stems from the fact that it relies heavily on the state to facilitate its work. It relies on the government to transport both election materials and some of the election officials. The Treasury funds its operations, including the conduct of elections and by-elections. The perennial complaint is that the government does not give the ECK adequate funds and that it has to rely on the staff of the provincial administrations to carry out some of its duties. This often raised doubts about the independence of the ECK, because the loyalty of such officials went first to the president or government, and only second to the ECK.

### **2.3.5 Deployment of armed forces and security services**

The challenge of maintaining security during elections is frequently underscored by a zero-sum approach to party and electoral politics. This is especially true in the war-like pre- and post-election environment that is created around highly competitive elections for presidential political succession, examples of which have been found in Côte d'Ivoire, Ghana, Kenya, Senegal, Sierra Leone, Togo and Zimbabwe in recent years. Insofar as they demand from the police force duties beyond their normal remit the challenges point to a vital need for EMBs to work with security agencies, the armed forces and paramilitary bodies to protect and ensure the integrity of the electoral process. Inter-agency arrangements put in place to this end can create problems of autonomy for the EMB, especially in respect of its constitutional or statutory authority to conduct elections and its ability to control military and security personnel assigned for electoral duty

(Adekanye & Iyanda, 2011). Ideally, it must be able to do so without alienating its partners or surrendering authority to the military and security agencies.

Problems may arise over the payment of armed forces and security personnel for electoral duty, and their non-partisan approach to securing and delivering election materials may be in doubt. A basic problem is, therefore, the absence (or inadequacy) of legislation to define the duties of military and security personnel in the electoral process and of the institutional framework for undertaking their tasks. In the case of Benin, ‘in practice, there are no formal rules regarding the relationship between [the] CENA and security forces for election security’ (Hounkpe & Fall, 2011). In Ghana, the EC initiated an ad hoc National Election Security Task Force ‘which brings together the Election Commission and other actors relevant to the security of elections, including various sections of the security forces’ (Hounkpe & Fall, 2011). The ECK’s reliance on the state police to maintain law and order and prevent election-related violence also raised concerns about its neutrality. As evidenced by the numerous election-related violent incidents and the inability of the police to take measures either to stop the occurrence of violence or punish those who engage in violence, the police have not always been able to sustain the confidence of the public regarding the maintenance of law and order during elections.

### **2.3.6 Electoral boundaries and delimitation**

On the boundary delimitation, Kenya undertook the last boundary delimitation in 1996. Whereas boundaries delimitation was constitutionally due in 2005, the Electoral Commission of Kenya initiated processes for the review of boundaries but did not alter the boundaries before the 2007 general elections. The Commission was effectively restricted by the limits in the former Constitution, which provided for a maximum of two hundred and ten (210) constituencies. The frequency of boundaries reviewed ensured that electoral boundaries were adjusted to account for the population dynamics and to align representation to changes in demographic patterns.



International standards invariably provided opportunities for adjustments of electoral areas between 8 and 12 years. In electoral systems based on the First-Past-The-Post Model and Single-Member constituencies like Kenya, the determination of electoral boundaries is of fundamental importance. The Independent Review Commission (Kreigler Commission), established after the disputed 2007, elections found that constituencies were unrepresentative and thus made far-reaching recommendations in the legal and institutional framework for boundaries delimitation. The Kreigler Report recommended that the first boundaries delimitation before the next general elections was to be undertaken immediately by an independent commission. It also recommended that the boundaries delimitation process should be based on objective criteria insulated from political interference.

Following the adoption of the Kreigler Report, Parliament enacted the Constitution of Kenya (Amendment) Act, 2008 to establish the Interim Independent Boundaries Review Commission (IIBRC) and provided a legal framework for boundary delimitation. After the enactment of the Constitution, the mandate of the IIBRC was recast by the transitional provisions to provide the framework for concluding the boundaries delimitation initiated by the IIBRC. The tenure of the IIBRC lapsed on 27th November 2011. Before the lapse of its tenure; the IIBRC presented its Report to Parliament which adopted it. However, due to legal challenges, the IIBRC did not gazette its Report per section 27 of the Sixth Schedule of the Constitution. The issues surrounding the work of the IIBRC were also hindered by the ruling in the *Maingi Case* where the High Court ruled that the Commission did not fully discharge its mandate (Maingi, 2010).

According to the Independent and Boundary Commission (2012), IEBC is mandated to resolve the issues arising therein and specifically the distribution of such wards and administrative units as may be appropriate. It is also required to address the issues of new constituencies falling outside the population quota while at the same time ensuring the process takes into account the

constitutional provision that requires progressive efforts and not instant demographic equality. The legal framework for delimitation of boundaries is provided under the former Constitution as amended by the Constitution of Kenya (Amendment) Act, 2008, the Constitution of Kenya, 2010 and the Independent Electoral and Boundaries Commission Act, 2011. According to international standards, the legal framework regulating the drawing of boundaries for electoral units is expected to make provisions for: the frequency of such boundaries delimitation; the criteria for such determination; the framework for public participation in the process; the institutional framework including the ultimate authority for the final determination of the electoral units; and resolution of disputes including the role, if any, of the judiciary.

Despite the 2010 constitution, various elements are still emerging day by day during the electoral process from different quarters concerning the independence of the electoral body in Kenya. These are factors that have contributed to interethnic hatred leading to election violence in Uasin Gishu and Trans Nzoia Counties.

## **2.4 Effectiveness of the Mitigation Strategies Adopted in Electoral Management Processes to Improve Interethnic Relations**

The Electoral Management Policy Frameworks are intended to mitigate electoral management practices which hinder elections globally to be carried out peacefully and credibly. Intended users are electoral management bodies, security enforcers, civil society and other state or non-state actors. Based on electoral mitigation measures, the following themes are worth mentioning to illustrate such scenarios:

### **2.4.1 Regulation on the conduct of elections**

Regulations on the conduct of elections Hoglund (2009) notes that electoral competition regulations are important in reducing violence in both transitional and post-conflict societies.

These rules can be classified into two different categories: rules of electoral competition and rules of electoral governance (Mozzafar & Schedler, 2002). These rules of electoral competition contain electoral formulas, district magnitude and boundaries, assembly size, and are generally referred to as electoral systems. The rules of electoral governance, on the other hand, refer to the party system, nomination and eligibility of candidates, qualification for voter registration, balloting and counting, collating and reporting procedures, election observing/monitoring and arbitration procedures. In most countries, while the former rules are contained in the country's constitution, the latter rules are contained in the electoral acts that are enacted by parliament. Reynolds and Sisk (1998) maintain that these rules are very strategic as they offer a code of conduct and operational incentives for both conflict and resolution mechanisms for those involved in an election contest.

The regulations are also crucial as a vehicle, whether the electoral practices of a particular administration are democratic or dictatorial. Such practices include for instance, the respect of political rights and freedoms of others, and the freeness and fairness of the elections by political parties (Ndulo & Lulo, 2010). In chapter seven of the 2010 Kenyan constitution, the electoral system shall comply with the general principles such as the freedom of citizens to exercise their political rights under Article 38, exercise free and fair elections which are conducted through secret ballot, free from violence, intimidation, improper influence or corruption; conducted by an independent body; transparent and administered in an impartial, neutral, efficient, accurate and accountable manner. When all these are adhered to, democratic principles are practiced.

#### **2.4.2 Election audit: international principles that protect election integrity**

According to Democracy International (2015), in both developed and developing democracies, elections are the best means to facilitate peaceful and predictable transfers of power. Many elections result in clear outcomes, in which one candidate or party is the resounding winner by a

large and acceptable margin, or a clear coalition government emerges. Close contests, on the other hand, are more frequently challenged. In these situations, the credibility of the outcome depends on the strength of the electoral legal framework, the integrity of the electoral management body, and the dispute resolution process, as well as on the extent of public confidence in the legitimacy of electoral and other government institutions. Elections in both developed and developing democracies are often zero-sum contests. These elections inherently have higher stakes, which may encourage non-winning candidates to pursue challenges since they may feel they have nothing to lose –even when contesting the election involves a costly, contentious, or time-consuming legal process that may have little chance of succeeding.

When election results are close in developed democracies, existing laws and regulations generally trigger predictable procedures that confirm results, adjudicate complaints, and produce election outcomes that are respected. In developing democracies, on the other hand, legal frameworks are often more ambiguous and susceptible to dispute. Fraud, or allegations thereof, compounds these challenges, as do poorly administered elections or a general climate of insecurity and impunity. As a result, close elections in developing democracies are often far more contentious and require the commitment of electoral authorities to navigate to peaceful and respected outcomes, and patience on the part of the public to allow the electoral authorities to do their job.

In both developed and developing countries, election recounts and audits have become common practices to settle disputes about outcomes. Election audits are increasingly used as a means of settling disputes on election results. A recount is a process by which ballots in an electoral contest are tallied again after the initial count following an election. Often, a different organization will count the ballots to confirm the results. An audit is undertaken to investigate alleged fraud or malpractice. An audit may include a recount of the votes, but it also involves other aspects of an investigation into allegations of fraud. It may involve a full or partial recount as well as other

actions undertaken to determine whether one or more people have deliberately sabotaged the election process, unfairly manipulated the election results, or committed extensive mistakes in administration (DI, 2015).

In developed democracies, election regulations often require recounting or auditing when specific thresholds have been met or surpassed (Ann, 2009). Regulations in developing countries, where the environment is usually more complex, often fail to adequately anticipate the range of potential outcomes, particularly in close and disputed contests, or when there are allegations of fraud on a large scale. In newly developing democracies, where legal frameworks for elections are sometimes ambiguous, and governance structures and the rule of law may be weak, allegations of fraud are common and often legitimate. When conducted in response to allegations of fraud, a post-election audit can increase the credibility of the outcome. For example, audits were used to help verify the results of elections in Afghanistan in 2009 and 2014, in Haiti in 2010, in Kosovo in 2009 and 2010, and in the poll for a new Constitution in Iraq in 2005 (IFES, 2011).

Recent elections in Afghanistan illustrate these challenges where in both 2009 and 2014, audits were conducted to help verify the outcome of the presidential races, applying ad hoc procedures to respond to significant political tension and insecurity. In the context of these elections, audits and recounts were conducted amid allegations of widespread fraud and with the credibility of the electoral management bodies in question. In 2014 in particular, international observer missions reported that electoral authorities and the international community were compelled by a political agreement to begin the audit in haste, which made it challenging to properly address key considerations, including the criteria that should be used to invalidate votes and which organization should have ultimate authority over the process. While this kind of response to serious political turmoil is not uncommon in developing and post-conflict states, it leaves the process vulnerable to ad hoc processes and decision-making (OSCE, 2014). In Kenya's scenario,

election audit has not been applied in the post-election violence. There is a need to borrow such systems as a mechanism to be used in case of future disputes in the electoral management systems.

A closer examination reveals how audits and recounts can be used as conflict mitigation tools. But the challenges faced during these processes demonstrate also that they should be used only in extraordinary circumstances in which accepted international standards can be applied. There are no perfect elections or electoral systems, and while inevitably there are irregularities, these should not necessarily threaten an election's credibility or integrity. Rather, irregularities threaten the integrity of an election only if they are extensive, systematic, and decisive in a close race (Elklit & Palle, 1997). To mitigate this threat, preventative measures ideally should be put in place before an election; following comprehensive scenario mapping. Such preventative measures should include an electoral integrity management plan. Equally important are effective and timely remedial measures to address allegations of fraud or malpractice via an effective electoral complaints adjudication system.

Reflecting on lessons from Afghanistan, Haiti and Kosovo, audits may ultimately facilitate peaceful and largely accepted election outcomes but may harm the longer-term consolidation of democracy in the country, requiring new leaders and the election bodies to gradually rebuild public trust. While serious political and security turmoil can arise in elections, the assertion that unique circumstances call for unique solutions can lead to the adoption of ad hoc processes a scenario that should be avoided through extensive prior planning, preparation for contingencies, and adherence to established procedures (Ann, 2009). Election audits and recounts are common around the globe. Any use of these processes especially in post-conflict, transitioning environments with widespread allegations of fraud – must be guided by international standards (DI, 2015).

### 2.4.3 EISA model application

The Electoral Institute for Sustainable Democracy in Africa (EISA) is a non-governmental organisation (NGO) that has evolved from an election-focused NGO operating in the Southern part of Africa, into a more diversified organisation working throughout the African continent. The Institute works with national, regional, Pan-African and global partners. Its work extends beyond electoral support to include other democracy and governance fields such as political party support, legislative strengthening and civil society engagement of the African Peer Review Mechanism. EISA has current and past field offices in countries like Burundi, Central African Republic (CAR), Chad, Côte d'Ivoire, Democratic Republic of Congo (DRC), Gabon, Kenya, Madagascar, Mozambique, Rwanda, Somalia, Sudan, Zambia and Zimbabwe (Mehler, 2007; EISA, 2010).

In the case of Africa, similar problems posed serious questions about the very credibility of elections and subsequently heightened the risk of electoral violence (Mehler, 2007; EISA, 2010). Conflict resolution mechanisms, including the EISA model, may be used effectively to prevent or solve certain election-related conflicts. The EISA model emphasises, *inter alia*, the establishment of election-related conflict management panels at various layers of society during the election cycle. Among the countries which use this model are South Africa and the DRC. The composition of the panels should reflect the diversity of the communities in which they operate. The approach is premised on early intervention mechanisms and entrenches the notion of mediation, arbitration and facilitation of conflict resolution (Tohbi, 2010). This method can be entrenched in the Kenyan system in collaboration with the government to enable transparent and peaceful elections.

In Kenya, there is an independent election body that is entrusted to conduct elections but elections which have been held still have some controversies. If the controversies are not addressed well, then they may contribute to an acute situation of conflict and outbreak of violence. The researcher

intended to assess if electoral administration as a method could be useful in mitigating post-election violence in Kenya.

In a bid to strengthen and enhance the regional conflict management panels, EISA conducted strategic planning and mapping workshops for all the established regional CMPs. This signaled a new phase in EISA's engagement in conflict mitigation ahead of the general elections as it paved the way for the deployment of the panelists owing to the threats to peace posed by the heightened political environment ahead of the general elections, EISA deployed CMPs from four regions namely Embu, Nyeri, Kisumu and Nakuru to avert or deal with any arising conflicts. The panelists held meetings with the newly appointed County Commissioners, who were charged with, among other duties, ensuring peace in the counties, mapped out the conflict-prone areas as well as the situations likely to trigger electoral related conflicts and designed with joint strategies for their resolution, in the respective regions, and discussed with various political aspirants in their respective regions requesting them to assist in minimising possible election related conflict by calling for peace and abstaining from remarks that could trigger conflict during their campaigns. The panelists further ensured that peace during campaigns was maintained by keeping the politicians in check by monitoring their campaigns and consistently reminding them of their agreement to maintain peace (EISA, 2017).

While regional panels had been established and were able to play a role in their respective regions, EISA, in partnership with the Independent Electoral and Boundaries Commission (IEBC) identified and trained a panel of national election conflict mediators. These included the selection of high-profile Kenyan personalities to serve on the panel. Besides being eminent personalities, the panelists also had a wealth of experience and a demonstrable track record in conflict resolution, both in Kenya and globally. These include Maj. Gen (Rtd) Lazaro Sumbeiywo who mediated the Sudan Peace Talks; Prof Abdulgafur Abdulsaidy Chairman of the Supreme Council



of Kenya Muslims (SUPKEM); Arch. Bishop Cornelius Korir of Eldoret Catholic Dioceses; Arch. Bishop Zacheus Okoth, Chairman of the Catholic Justice and Peace Commission (CJPC); Bishop David Gitari Rtd head of the Anglican Church in Kenya; and Tecla Lorupe a renowned Kenyan female athlete and the head of the Tecla Lorupe peace foundation (EISA, 2016).

#### **2.4.4 Elections monitoring and observation**

While the presence of election monitoring may not reduce the level of violence, the deployment of election monitors in a country may safeguard the free and fair conduct of elections, track election-related violence, and build the confidence of the voting public about the overall electoral process (Pintor, 2005). Furthermore, the presence of election monitors and observers as important actors can raise confidence in the elections and can therefore minimize the scale of election violence (Hoglund, 2009). International and domestic observer missions are generally recognized as neutral and credible, as well as able to detect and help to stop manipulation, instill confidence in the results, and bring international pressure to bear to achieve their acceptance. They can deploy large numbers of people with sufficient knowledge to similarly detect and deter manipulation. They also provide transparency and a means of mapping and tracking incidents to dissuade perpetrators and hold them accountable (Fischer, 2002). Others are human rights groups that are concerned with methodologies aimed to record incidents of election violence and may document facts such as motives, victims, perpetrators, responses, and impacts of violence. Monitoring is done to present findings to electoral commissions, government agencies, security forces, media, and other stakeholders to assist craft responses that would prevent or mitigate further violence (Fischer, 2002).

According to the Declaration of Principles for International Election Observation and Code of Conduct (2005), genuine democratic elections are an expression of sovereignty, which belongs to the people of a country; the free expression provides the basis for the authority and legitimacy of

government; the rights of citizens to vote and to be elected periodically and genuinely democratic elections are internationally recognized human rights. Genuine democratic elections serve to resolve peacefully the competition for political power within a country and thus are central to the maintenance of peace and stability which are requisite conditions for democratic governance, because they are the vehicle through which the people of a country freely express their will, on a basis established by law, as to who shall have the legitimacy to govern in their name and their interests.

On the other hand, the declaration of principles for international election observation, expresses the interest of the international community in the achievement of democratic elections, as part of democratic development, including respect for human rights and the rule of law. International election observation, which focuses on civil and political rights, is part of international human rights monitoring and must be conducted based on the highest standards for impartiality concerning national political competitors and must be free from any bilateral or multilateral considerations that could conflict with impartiality. It also assesses election processes per international principles for genuine democratic elections and domestic law, while recognizing that it is the people of a country who ultimately determine the credibility and legitimacy of an election process.

International election observation has the potential to enhance the integrity of election processes by deterring and exposing irregularities such as fraud and providing recommendations for improving electoral processes. It can promote public confidence, as warranted, promote electoral participation and mitigate the potential for election-related conflict. It also serves to enhance international understanding through the sharing of experiences and information about democratic progress. International election observation has become widely accepted around the world which is critical in providing accurate and impartial assessments about the nature of electoral processes.

Accurate and impartial international election observation requires credible methodologies and cooperation with national authorities, the national political competitors (political parties, candidates and supporters of positions on referenda), domestic election monitoring organisations and other credible international election observer institutions, among others.

As a commitment to the SADC Treaty and the Protocol on Politics, Defence and Security Cooperation, Member States shall undertake to implement interventions designed to promote democratic principles and practices. To this end, the responsibilities of Member States shall be to: “Make every effort to ensure the scrupulous implementation of the “Principles for Conducting Democratic Elections”, as stipulated in section four (4) of the SADC Principles and Guidelines Governing Democratic Elections, and in accordance with the constitutional processes of the country; Facilitate the observation of the entire electoral cycle of their national elections by SADC electoral observation mission (SEOM), including the deployment of Goodwill Missions, Long Term Observers (LTOs), Short Term Observers (STOs), and pre-election assessment processes; Establish impartial, professional, independent, all inclusive, competent and accountable EMBs staffed by eminent, non-partisan and capable commissioners, and efficient and professional personnel; Ensure transparency, justice, and expediency in the resolution of disputes that arise from elections by such means as Codes of Conduct, Constitutional and Electoral Courts, or any relevant Court of law to arbitrate in the event of disputes arising from the conduct of elections” (SADC, 2015).

Associated with electoral administration is the deployment of monitors to oversee the electoral process and verify manipulative and violent activities that may influence the electoral process and its outcome (Sisk, 1998; Fortmann, 1999). This is the responsibility of election monitors internationally. They are supposed to do this work without favour or fear. The purpose of election monitoring missions is to safeguard the free and fair conduct of elections. The idea of the role of

election monitors is advanced by Fisher (2002) in that it provides transparency and a way of tracking incidents. They ensure sure that free and fair elections are conducted in any democratic society.

Further, according to the SEOM, electoral observation, serves to improve electoral integrity, mitigate electoral conflict, enhance public confidence and promote citizen participation in the electoral process. This is by providing a basis for accurate and impartial evaluations of the nature of the electoral process (SADC, 2015). But contrary to the duty assigned to election monitors; sometimes they carry out their activities with the interests of their countries. They give the final report based on their interests and that is why some countries do not favour election monitors and observers. The reasons could be the incumbent president wants to manipulate results or on the other hand it could be about rivalry or having incompatibilities of interests between the two parties. Zimbabwe is a case in point in Africa during their General

Elections, where election monitors were barred from accessing most of the polling stations, attracted sharp international outcry. According to Ndulo and Lulo (2010), election monitoring involves evaluating the extent to which elections were conducted in a free and fair manner. International election monitors and observers, depending on their countries' interests, might be biased in giving the results of their observations. Based on their analysis, they may give the wrong conclusions on their doctored results which mislead the electorates and the international community. This informs that countries need to practice free and fair elections to avoid involving many other parties which may end up misleading the entire process of elections.

The main objective of election monitoring is building the trust of the voters in the overall electoral process (Pintor, 2005). The public is not even concerned with the international monitors but it gives confidence mainly to the competitors. The electorates are concerned with the machinery of

the state to guarantee free and fair elections. In Kenya for example, for any elections, electorates are concerned with the outcome of the electoral process conducted by the electoral body.

Even though the presence of domestic and international election monitoring organizations may not necessarily avert the risk of electoral violence, it may reduce the magnitude of such violence (Hoglund, 2009). In case of violence erupts, the international monitors' results may be used to avert violence that would otherwise be intense. On the contrary, the introduction of electoral monitoring might not prevent violence from occurring, it might have a dampening influence on violence intensity. For instance, in the 1994 Rwanda genocide, international monitors gave early warnings to the UN but little was done to curb the situation. Violence erupted which led to destruction, genocide and displacement of populations.

In Kenya's situation, according to (Juma, 2018), good electoral management is what all political classes would need for the thriving of democracy but conversely deterioration of democracy when in crisis renews itself in tyra-democracy (application of tyranny using weak systems and institutions of governance). The spark for the firestorm of ethnic violence was lit inside a cavernous meeting hall in downtown Nairobi, where election officials over four days doctored vote counts, dismissed eye-popping irregularities and thwarted monitoring by independent observers to deliver a razor-thin victory to President Mwai Kibaki.

Observers who were allowed into the vote-tallying center on Dec. 29-30, hours before the results were announced, said there was so much systematic fraud by Kenya's government-appointed election commission that it's impossible to know who won. The extent of the commission's deceptions has faded into the background as more than 800 Kenyans have been killed in ethnic clashes and police crackdowns. Official results gave Kibaki an edge of 231,728 votes, or 2 percent, out of about 10 million casts. Initial results of an exit poll by the U.S.-funded International Republican Institute found that rival Raila Odinga had won by an 8 percent margin. The

International Republican Institute says it will not release the poll until it has assessed the validity of the methodology (McClatchy, 2008).

Despite the graveous happenings as noted by observers, the impunity revealed further a trend in electoral management dynamism that seemed to have rooted in Kenya. The engrained **tyra-**systemocracy works within institutions led by compromised characters and where legislative loopholes thrive for the advantage of regimes seeking re-election. McClatchy further sadly notes how election officials allowed five accredited Kenyan observers into the tallying center in Nairobi only in the final phase of vote counting. All said that the gravest cheating occurred in that room, where commissioners all appointed by Kibaki compiled returns before announcing them to the public. The long-serving chairman of Kenya's election commission played an active role in the deception, the observers said (McClatchy, 2008).

#### **2.4.5 Power sharing mechanism**

Power-sharing mechanisms are a thought-out strategy when an electoral system fails to carry out its mandate in a fair manner. When a case of malpractice takes the centerstage it paves the way to electoral disputes leading to violence. To evade such violence, EISA (2010) offers a theoretical perspective on power-sharing, which explains how culturally-segmented societies can establish peace and democracy by prescribing power-sharing among the various cultural segments. He underlines four types of power-sharing arrangements: grand coalition, cultural autonomy, proportionality and minority veto. Shale (2010) argues that neither Kenya nor Zimbabwe fits into the scope of 'deep societal cleavages' which stresses that the post-election conflict in the two countries was not necessarily triggered by chronic cleavages and that power-sharing deals were not necessarily the appropriate mechanisms for resolving the problems.

He notes that, in both countries, deficiencies in the management of the electoral process led to the violent aftermath of the elections. He concludes that the power-sharing approach is a short-term solution to the post-electoral conflict and is no guarantee of long-term peace. The author's views are true because power-sharing arrangements in both Kenya and Zimbabwe were founded on a compromise reached by political elites and were not firmly grounded in popular consent. Even more disturbing was the fact that, in Kenya, the political leaders were more preoccupied with sharing the spoils through the distribution of ministerial portfolios than focusing on building sustainable peace and democracy and advancing socio-economic development in the long term. It brought in the witch-hunting syndrome which has become part of Kenyan politics today.

Power-sharing arrangements negate the value of electoral processes and, if left unchallenged, will effectively render the vote irrelevant and make way for tyrannical regimes. Instead, there should be respect for the rules and guidelines of the electoral process, the institution of conflict management mechanisms before elections and, if conflicts arise, the adoption of citizen diplomacy alongside official diplomacy to affect a long-lasting solution to the conflict. The power-sharing deal brought mistrust and witch-hunting among the political divide to date in Kenya. It has contributed to ceaseless tension in the country. It is a short-term remedy that saves what could have otherwise become a serious crisis.

#### **2.4.6 The Kriegler Commission and Electoral Reforms**

Among the factors that informed the push for constitutional and legal reforms in Kenya throughout history, was the desire to have an electoral system that accords with the fundamentals of democracy. Free and fair elections are a result of a sound electoral management system that is founded upon a sound legal and administrative framework. The legitimacy of any government, which is foundational to proper governance, is dependent on the confidence that people have in the electoral system. An electoral system founded on a weak legal framework is less likely to

inspire people's confidence in the resultant government (Elisha & Otieno, 2012). Kenya's legal framework from the 2013 general elections to the 2017 general elections founded on a strong constitution has been marred with irregularities which may lead the country into problems if not handled with care.

According to Kas (2014), Kenya has been at a political crossroads ever since the close of the 2007 General Elections. While there has been relative peace, general calmness and a running government, the situation remained fairly fragile and uncertain. This was a reality in 2007 post-election violence when almost everything was shattered. The relative peace and calmness enjoyed over time were no more. Tensions and hatred developed as a result of the 2007 General Election violence. The brokered settlement or the National Accord process laid after a series of 'must dos' through its agenda resolutions and gave timelines if the national healing and reconstruction were to be realized (Kas, 2014). The 'must dos' included the setting up of commissions to investigate, examine and recommend circumstances that surrounded the General Election violence and to further scrutinise the country's electoral process with a view of initiating and guiding electoral reforms to avoid future general election violence.

The signing of the National Accord prompted inter-governmental, governmental and non-governmental actors in Kenya to undertake robust programming to assist the Kenyan government in carrying out this Implementation Framework to avoid a return to violence around the next scheduled General Elections in 2013. This included investments in new technology, early warning/early response (EWER) systems, peace messaging and capacity building for the county's dispute resolution infrastructure (including a newly established National Cohesion and Integration Commission (NCIC), and local District Peace Committees (DPCs). Considerable attention was also paid to promoting responsible journalism and finding innovative ways to engage youth and dissuade them from perpetuating violence (Fatima, 2017).



On 4th March 2008, two commissions: the Independent Review Committee (IREC) and the Commission of Inquiry on General Election Violence (CIPEV) were formed. The two would be non-judicial bodies mandated to investigate and report on different aspects of the problematic issues in the crises. The IREC investigated all issues of the 2007 presidential elections and made findings and recommendations to improve the electoral process and CIPEV would investigate the facts and surrounding circumstances related to the violence that followed the elections and make recommendations to prevent any recurrence of the violence in the future (Kas, 2014). As a result, the commissions formed became a stepping stone to many reforms in Kenya today.

IREC was appointed by former President Kibaki under the Commissions of Inquiry Act (Cap. 102). Its formation was formally gazetted through a Kenya Gazette Notice of 14th March 2008. The membership to the commission was arrived at through consensus between the two parties to the negotiations under the PNU and ODM axis. Ten members agreed on this. They were sworn in on the 20th of March 2008.

Election Management and Administration were at the core of the failure that was noted in the disputed 2007 elections and constituted the main trigger for 2008 post-election violence (Owuor, 2013). The Kriegler Commission was mandated to examine the 2007 elections from several angles: the constitutional and legal framework with a view of identifying weaknesses and inconsistencies, the structure and composition of the ECK to assess its independence, capacity and functions (operations), the electoral environment and the role of the political parties, civil society, the media and observers, the organisation and conduct of the 2007 elections, extending from civic and voters education and registration through polling, logistics, security, vote-counting and tabulation to the results-processing and dispute resolutions, vote-tallying and counting to assess the integrity of the results of the entire election with special attention to the presidential race, assess the functional efficiency of the ECK and its capacity to discharge its mandate and

recommend electoral and other reforms to improve future electoral processes (<http://www.kas.de/wf/doc,2014>). According to Owuor, 2013, Kriegler pointed out that the “2007 elections were irredeemably flawed that nobody would say with certainty that won or lost the elections”.

Kriegler's report recommended the disbandment of the ECK, the establishment of a new EMB, the distinction between the Commission and the Secretariat, a fresh Voter Registration Constitutional Amendment in 2008 that established the Interim Independent Electoral Commission and Interim Independent Boundaries Review Commission and finally the Establishment of the Independent Electoral and Boundaries Commission. The commissions did their work and submitted their findings and recommendations to the government for further implementation. This may have contributed to the establishment of structures put in place to prevent electoral management election violence in Kenya.

Following the recommendations from the Kriegler report, the country put emphasis on laws that directly govern the electoral process in Kenya: the Constitution of Kenya 2010, the Elections Act, 2011, the Political Parties Act, 2011, and the Independent Electoral and Boundaries Commission Act, 2011. Other general principles of international law and treaties ratified by Kenya have a bearing on the electoral process and impact the electoral process. The same has the force of law in Kenya under articles 2(5) and (6) of the Constitution of the Republic of Kenya which recognize them as part and parcel of Kenya's law (Owuor, 2013).

Following the resounding adoption of the new Constitution of Kenya 2010 on August 4th, 2010 and the subsequent promulgation of the same constitution on August 27th, 2010, several institutional and legal reforms were ushered in. The Constitution itself made provisions that altered the institutional and legal underpinnings of governance in the country as hitherto understood. With the new Constitution, several other legislative and administrative reforms were

inevitable. These reforms were either expressly required under the Constitution within prescribed time frames or implicitly required to make the legal regime in the relevant sectors compliant with the new constitutional order.

One of the sectors that were inevitably affected by the promulgation of the new constitution of Kenya was the electoral sector. There are several laws that the Constitution of Kenya 2010 demanded to be enacted to govern the electoral system and process in the country since the manual registers continued to dominate polls until the 2007 elections which culminated in the post-election violence (Kamau, 2017).

A number of these laws have since been enacted by the National Assembly and have been brought into force. The important Laws surrounding the IEBC on the electoral system include Kenya Integrated Elections Management System (KIEMS), whose aim was to make sure that it was secure and transparent. Kiems was to hold data on voter and candidate registration, voter verification and result transmission. According to Kamau (2017), it also integrated the existing biometric voter registration, the biometric voter identification, the electronic result transmission and the political party and candidate registration systems. But most of the biometric voter registration kits failed during the March 2013 elections which was an echo of the irregularities recorded in the previous elections. Further, he emphasised that the Kiems tablets were configured to reject entries that exceed the voter turnout in respective polling centres making it impossible to cast more votes than a station is allowed. The system was capable of transmitting the text results and the results declaration form that is scanned.

The proposed Elections Laws (Amendment) Act 36 of 2016 was approved by the majority of the jubilee MPs to allow the Independent Electoral and Boundaries Commission (IEBC) to come up with a manual system of identifying voters and transmitting results, complementary to the electronic tallying system. “Notwithstanding the provisions of Section 44, the commission shall

put in place a complementary mechanism for identification and transmission of results that is simple, accurate, verifiable, secure, accountable and transparent to ensure it complies with the provisions of Article 38 of the Constitution,” reads the amendments.

Before the 2017 August general elections, President Uhuru Kenyatta signed the controversial Election Laws (Amendment) Bill into law that allowed the use of a manual backup in case the electronic system failed, the Opposition threatened to call for mass action. The law allowed the Independent Electoral and Boundaries Commission (IEBC) to use “a complementary mechanism for identification of voters and transmission of election results” in case the gadgets failed (Kamau, 2017).

All these developments as a result of the transmission of electoral results have brought controversy in its handling by the political divide and put the country into a dilemma on national elections.

## **CHAPTER THREE**

### **RESEARCH METHODOLOGY**

#### **3.1 Introduction**

This chapter presents the research methodology used in conducting the research. A description of the study area is presented and an explanation of the research design employed in the study. The population of the study, sample size and sampling techniques are also presented including the data collection instruments and procedure as well as the validity and reliability of research instruments. Finally, the method of data analysis and ethical considerations are explained.

#### **3.2 Research Design**

This study used a qualitative research design. In this design, descriptive survey research design and mixed method approach was used. The researcher opted for both approaches because each is appropriate for finding different outcomes. The qualitative research design was appropriate for exploring the variation and diversity in the political and social relations in the hotspot areas.

#### **3.3 Area of Study**

The study was carried out in Uasin Gishu and Trans-Nzoia Counties in Kenya. The counties receive adequate rainfall for agricultural farming, which is the economic activity of many people in the country. The researcher chose these counties because they host different ethnic communities and have experienced antagonistic interethnic relations in previous years. The study settled in these two counties because in Uasin Gishu, the majority ethnic communities are majorly the Nandi and Kikuyu while in Trans Nzoia, there are many ethnic groups such as Kikuyu, Kalenjin, Kisii, Luhya, Luo, etc. Therefore, two of the 'hot spot' areas were selected because of their vulnerability to electoral violence and bore the brunt of 2007 post-election violence.

The study sites were limited to Burnt Forest in Uasin Gishu County and Kachibora in Trans-Nzoia County, respectively. The two counties were respectively formally, referred to as Uasin Gishu and Trans Nzoia districts in the Rift Valley province before the adoption of the 2010 constitution. These areas because of being cosmopolitan have been prone to electoral violence.

According to Markussen and Mbavi (2011), the two counties featured among the top five counties in Kenya in terms of people who lost lives after the 2007 post-election violence as compared to many counties which experienced violence. The lives lost in Nakuru were 263, Uasin Gishu 230, Nairobi 125, and Trans-Nzoia 104 (Markussen & Mbavi, 2011). Other areas affected were Kisumu, Kericho, Kakamega, Bungoma, and Mombasa. This indicated that the magnitude of electoral violence was hence indicating the reality of adverse ethnic relations in cosmopolitan areas in the country. (Refer to attached maps in the Appendices).

### **3.4 Target Population**

The target population of victims in Burnt Forest, Uasin Gishu County was 4200 and in Kachibora, Trans Nzoia was 2000 based on (WHO, 2015). It included election victims, former ECK officials, political aspirants (candidates), local observers, elections agents, county/district commissioners, chiefs, security enforcers, village elders, NGOs, and camp administrators. The total target population was 6,618 as indicated in table 3.1.

**Table 3.1: The Study’s Target Population and Sample Size of the Key Informants and Respondents**

	<b>Uasin Gishu</b>	<b>Trans Nzoia</b>
<b>Target pop.</b>	<b>Target Pop.</b>	<b>Target Pop.</b>
<b>ECK R.Officers</b>	1	1
<b>ECK P.Officers</b>	14	10
<b>Counting Clerks</b>	84	60
<b>Reg.Clerks</b>	6	4
<b>Polling Clerks</b>	84	60
<b>DC/County Comm.</b>	1	1
<b>Chiefs</b>	1	1
<b>Security Officers</b>	28	20
<b>NGOs</b>	1	1
<b>Political Aspirants</b>	6	8
<b>Local Observers</b>	4	4
<b>Village Elders</b>	1	1
<b>Election Agents</b>	6	8
<b>Camp Administrators</b>	2	0
<b>Victims</b>	4200	2000
<b>Total of Participants</b>	<b>4,439</b>	<b>2,179</b>
<b>Total: Target Population 6,618</b>	<b>Sample Size 363</b>	

*Source: Field Data (2015), and the Kenya Gazette, (2010)*

### **3.5 Sample Size and Sampling Procedure**

The study adopted the formula by Krejcie and Morgan (1970) to calculate the sample size of victims and key informants. Warwick and Lininger (1975) argue that the main factor considered in determining the sample size is the need to keep it manageable enough. This enables the researcher to derive from it detailed data at an affordable cost in terms of time, finances and human resources.

The areas of study included Burnt Forest and Kachibora being the most hit areas during the 2007 interethnic relations in 2007 General Election Violence. The sampled size of interethnic relations was 363 in Burnt Forest and Kachibora respectively. The following population was sampled for the study: the victims, the former ECK officials, political aspirants (candidates), local observers, elections agents, county/district commissioners, chiefs, security enforcers, village elders, NGOs, and camp administrators. These groups were targeted since they had access to information on the study variables. All these populations in one way or another experienced the political dynamics of electoral management practices on interethnic relations in the 2007 General Elections. This information is summarised in Table 3.1.

ECK officials such as registration clerks, polling clerks, counting clerks, presiding officers and returning officers were hired on temporary terms. Polling clerks and counting clerks performed both roles for polling clerks and counting clerks within their specific polling locations.

The researcher purposively sampled the people with targeted information by visiting their offices of which their contacts were obtained from the staff (receptionists) who were manning the offices. They gave me the interviewees' contacts and other officers whom I could reach easily. Their contacts were used in booking their appointments of which some accepted appointments and others were kind enough to refer the researcher to their junior staff. Others declined to offer



appointments completely. For those appointments which were declined, the researcher had to seek assistance from those who could provide similar information on the subject; implications of electoral management practices on interethnic relations violence in Uasin Gishu and Trans-Nzoia Counties.

### **3.6 Instruments of Data Collection**

The three methods of data collection used in this study were interviews, questionnaires and Focus Group Discussions.

#### **3.6.1 Questionnaire**

According to Nachmias and Nachmias (1996), the foundations of all questionnaires are questions that translate research objectives into questions; answers to such questions will provide the data for the entire study. The questions must motivate the respondents to provide the information being investigated. The study used Likert scale questionnaires to collect data from the victims which comprised both open-ended and closed-ended questions to capture responses from respondents.

The Likert scale response format was developed by Rensis Likert in an attempt to improve the levels of measurements in social research using standardised response categories in survey questionnaires (Leedy & Ormond, 2001). Each item in the questionnaire was developed to address a specific objective and research question of the study which was supported by Mugenda & Mugenda (2003). The use of the Likert scale was to solicit quantitative data from the respondents. The researcher was thus able to keep under control the amount of data received from the respondents. An advantage of this technique is that the respondents are guided by questions that are likely to give relevant information thus improving the reliability of the data generated.

The administered questionnaires administered were collected on different days depending on the days of distribution. Questionnaires were distributed systematically targeting the areas where

election disputes were rampant. In Kesses constituency which was formally Eldoret South constituency, the study targeted Kondoo farm, Burnt Forest shopping center, Tarakwa, Oleinguse, Kamuyu and Chuiyat areas. In Trans Nzoia, the study targeted Kipkeikei, Seum, NoigamTwiga, Motosiet to be exact were areas of interest.

### **3.6.2 Interviews**

Data was further collected through interviews. To obtain first-hand information from the informants, the interview guide was administered purposively to the selected key informants based on their knowledge and experience related to the subject under study. These interviews took the form of face-to-face interactions between the researcher and selected members of the target population. The face-to-face interview method enabled the capture of in-depth information. It also provided an opportunity to develop rapport with the respondents which enhanced the quality of the data collected. The researcher chose face-to-face interactions interviews because the method had a distinctive advantage hence it allowed for the clarification of responses and, follow-up on information as noted by Burns (1999) Silverman (1993). The interviews were conducted in a manner that key informants were approached on time. The technique applied was through gatekeepers or referrals. This approach enabled the researcher to get contacts that were used in booking either by visits or through calls. After getting acceptance for their interviews, all these interviews were done face-to-face. The researcher visited most of the key informants and for those who were not available, the researcher had to make new appointments. In cases where the key participants were occupied, they simply referred the researcher to some senior administrators who were immediate assistants to the county officers.

In the cases of the election agents, the researcher had to visit ODM offices in both counties to get the details of those who participated during the elections. PNU agents were not easily available. I had to visit councillors and members of parliaments who won the elective positions in the 2007

General Elections to direct me to their agents though members of parliament were not helpful. Councillors were very useful because they could direct me to the whereabouts of some of their agents who happened to be their close associates. Observers were accessible through their offices.

The researcher visited NCKK offices in Eldoret and was directed to religious leaders who played a crucial role during elections as internal election observers during the 2007 General Elections. Religious faith was approachable and they provided the information needed. Also, the researcher got access to observers of the Centre for Multi-Party Democracy (CMD) through election clerks who knew their whereabouts. One observer in Eldoret directed me to another observer of (CMD) who carried out his duties in Trans Nzoia County during the 2007 General Elections. The researcher visited the two observers for interviews. The observers were readily available in their workplaces.

Members of parliament who were candidates were visited for interviews from both parties, and though some were giving very scanty information the researcher did visit the councillors who provided detailed information.

Nevertheless, most of these interviews had limitations as they took a lot of time as a result of logistical scheduling, most of the identified officials were not easily reached hence rebooking appointments, rescheduling dates, times and venues while those available had tight schedules and thus were only on hand for few minutes. Gall, Borg and Gall (2003) have noted that data collected from interviews is time-consuming to analyse and the number of participants is small when compared to a survey.

For Electoral Commission officials, most of their details were supplied from Electoral Commission offices in Eldoret and Kitale. It included presiding officers, election clerks and registration clerks. The researcher used an interview guide for registration clerks. This method

was the best since it enabled the researcher to prop the respondents in the course of the interview for more information and clarification. The interview guide was very appropriate for the research as it contributed to the unraveling of electoral management practices on ethnic relations in 2007 election violence in the study areas.

According to Marshall and Rossman (1999), the interview method has some disadvantages which include the unwillingness of study participants to share or not being aware of the information the interviewer wants to explore, interviewees could have good reasons to be untruthful and cases of large volumes of data, analysis is time-consuming. The researcher minimised the limitations by explaining early enough and giving them a copy of a letter from the university and permit as a surety but still, some challenges were faced.

Most of the administrators were giving scanty information on some objectives which were covered well in Focus Group Discussions and questionnaires. Another challenge was that most of the administrators were new in the working places; using the locals, the researcher managed to get those administrators who were there during the elections of 2007.

### **3.6.3 Focus Group Discussion**

Focus Group Discussion with the informants was limited to 6 to 10 participants as recommended by Leedy and Ormond (2001) and Neuman (1997). Interviews with FGD members explored, in-depth, their experiences on the pattern of General Elections and violence, structural contexts of electoral management, challenges faced and measures that were put in place to address the 2007 post-election violence. A Focus Group Discussion was very appropriate for the research as it contributed to the unraveling of electoral management practices in the 2007 post-election in the study areas.

The researcher selected eight Focus Groups Discussions from the two study sites of Kachibora and Burnt Forest. Each FGD selected was to represent different homogenous groups to enable easy participation during discussions. Each Focus Group Discussion comprised 6 members. Each Focus Group Discussion consisted of members of the local communities but with the required diversity of age, education, and work experience. Participants were contacted before the meeting, explaining the purpose of the research, and securing their consent to participate.

Each informant in the study was enlightened about the purpose of the study and consequently assured of confidentiality and anonymity. The researcher and the assistant made a conscious effort to build a rapport with the participants. The advantages of an FGD outweigh its disadvantages, hence its usefulness in this study. The benefits of using an FGD are summarised by Wilkinson (2004) as follows: it enables one to collect data from a larger sample in a short timeframe, respondents can react to and build upon the responses of each other resulting in elaborated accounts, and it promotes the reduction of the researcher's control over the interaction, thereby bringing to their notice the previously neglected or unnoticed phenomena.

The use of the FGD strategy in this study was important because of the researcher's interest in obtaining additional information which would not have been obtained from interviews and the questionnaires. The moderator focused on the four research objectives and then probed further into relevant topics whenever the discussants mentioned them during the discussions.

According to Krueger and Casey (2000), the FGD intends to promote self-disclosure among participants was found that this method of data collection was not only economical but also useful in discovering the interviewees' hidden feelings as was found in the field. Another key advantage of the use of the FGD in this study was that it provided an understanding and insight into the problem, as indicated by Krueger and Casey (2000). Thus; the information gathered from the

FGD was used to verify and complement data collected from questionnaires and interviews after data from questionnaires and interviews had been analysed.

FGDs have limitations and weaknesses. According to Patton (2002), in an FGD, the number of questions asked is limited, as is the time available to each respondent. In such a case, the moderator asked propping questions to open up participants for in-depth information. In addition, the moderator of an FGD needs high skills to moderate. The researcher was the one in control of moderating the interviews whose assistant had good knowledge of issues to do with electoral management and ethnic violence.

In addition, the moderator of FGD needs high skills to moderate the interviews and has less control over the group interviews. In addition, data generated from FGD are difficult to analyse (Marshall & Rossman, 1999). The researcher managed to analyse data from FGD by tape recording the data collected and writing short notes which were later put into different themes. Points addressing the same themes were put together and were analysed easily based on which theme carried the majority, followed by a few and so on. This was easily achievable when analyzing data.

In-depth interviews with key informants were conducted by the researcher and moderation of the FGD, while the research assistant took notes and managed the recording of the information collected. Additionally, the research assistant helped in coordinating members of the FGD who had been earlier identified through the key informants and some residents of those areas.

The research assistant was knowledgeable in public relations. His interactions and relations enabled him to exercise good rapport with the participants. Prior, to the data collection process, the research assistant was carefully trained to enable him to conduct the research in a professional, standardised manner. The training included developing rapport with interviews, use of propping

and clear words that interviewees understand and being focused on the purpose of the study, how to write field notes (including feelings, thoughts, and experiences), recording important information, taking pictures where necessary and managing interpersonal and confidentiality issues.

**Table 3.2: Focus Group Discussion**

<b>Focus Group Discussions</b>	<b>Uasin Gishu</b>	<b>Trans Nzoia</b>
<b>Old Men</b>	1	1
<b>Young Men</b>	1	1
<b>Old Women</b>	1	1
<b>Young Women</b>	1	1
<b>Total Groups</b>	4	4
<b>Total</b>	<b>8</b>	<b>8</b>

*Source: Field Data (2015)*

In the two study areas, eight Focused Group Discussions were conducted where men and women were separated based on their age groups. In Burnt Forest, Focus Group Discussion 1, comprised of young women in Burnt Forest Centre and FGD 2 comprised of young men was conducted at Chuiyat Centre on 3rd August 2015 in the afternoon from 2.00 pm to 4.00 pm. On the same day 3rd August, FGD was conducted with the elderly men at Burnt Forest in the morning from 10.00 am to 12.00 noon while in Kachibora, FGD 3 comprised of young women held at Burnt Forest Centre on 16th August 2015 and FGD 4 comprised of elderly women which was conducted in Kondoo Farm on 20th August 2015. FGD 5 comprised of young men from Trans Nzoia county held on 24th August 2015 at Seum shopping centre. Another FGD was conducted on 23rd August 2015 in Naikam Trans Nzoia which comprised of elderly women. The FGD comprising elderly men was conducted in Makutano on the 23rd from 10.00 am to 12.00 noon separately and another FGD was conducted at Makutano centre in Trans Nzoia County on the 23rd from 2.00 pm to 4.00

pm and the last group of young women was conducted on 22nd, August 2015 at Kachibora Market. Grouping the respondents into homogeneous groups helped in enabling free discussions by the participants. Those groups were able to provide in-depth information to unravel what was not revealed during interviews and questionnaires.

### **3.7 Validity of the Instruments**

The mixed method advocates for the use of validity procedures for both the quantitative and qualitative phases of the study (Tashakkori & Teddlie, 1998). The validity of the results was established through consultations and pilot testing of both qualitative and quantitative instruments. According to Mugenda and Mugenda (1999), validity is the degree to which results obtained from the analysis of the data represent the phenomenon under study. It is a measure to which data collected using a particular instrument represents a specific domain of indicators or content of a particular concept. The items in the questionnaire were discussed with the supervisors and then subjected to a pilot study in Langas estate on the outskirts of Eldoret town. This area was relevant to the study because it is one of the cosmopolitan areas in Uasin Gishu County and the previous elections and ethnic relations on violence bore the same brunt of electoral violence. Some questions were found to be invalid and corrections were made before embarking on the actual data collection process.

### **3.8 Reliability of the Instruments**

Mugenda and Mugenda (2003) aver that the reliability of an instrument is the measure of the degree to which a research instrument yields consistent results or data after repeated trials. The piloting was done in Langas Estate in Uasin Gishu County twice and the instruments were found to be reliable after testing and correcting the initial problems encountered. It was found that the



items on the questionnaire were clear to the respondents and thus considered reliable. This was done using the Cronbach Alpha index.

### **3.9 Ethical Consideration**

The researcher first sought permission from Kisii University Post-Graduate Research and Extension office which was granted. Secondly, permission was sought from the National Commission for Science, Technology and Innovation (NACOSTI), and finally from the study participants. The researcher provided an adequate and clear explanation of the purpose of the research to the respondents and their voluntary participation and their consent were obtained. The researcher committed herself to adhering to the highest standards of ethical conduct and paid attention to the most important issues such as anonymity where the identity of the respondents in the research was protected. No personal numbers, individual and institutional names, were obtained. Confidentiality and privacy are provided so that the information gathered from respondents is not disclosed to any other parties (Horman, 1999). Where any source was used, the researcher acknowledged it.

According to Bless and Higson-Smith (2000), the participants ought to be assured that the data was only to be used for the intended purposes of the research and that no other person would have access to the data. The researcher was committed to confidentiality and even where identity could be disclosed given the person's responses, the researcher promised not to do so publicly. The major ethical issues which were overcome in the study were the infringement on privacy and confidentiality of respondents. The study treated all information with the highest level of confidence, and respected views of any kind from the respondents. Any response given by the participants was not used for any other purpose other than for the study. The results of the study will be availed to relevant authorities and to those participants who will be interested.

### **3.10 Data Analysis and Presentation**

Data analysis in mixed-approach research relates to the type of research strategy chosen for procedures (Creswell, 2003). Analysis occurred both within the quantitative (descriptive statistics) and the qualitative (thematic analysis) approaches. This study adopted both quantitative and qualitative data collection methods. Quantitative data from closed-ended questions were tabulated using descriptive statistics to process data and presented in the form of charts and pie charts. This enabled the researcher to process the findings for the study. Thematic analysis was used to process data collected through interviews, focused group discussion and open-ended questions for interpretation.

A thematic approach was applied to analyse narratives from interviews and FGDs. This was used to check the convergence of views from different instruments. The analysis and interpretation were combined to seek convergence among the results. This gave a clear view of what was happening depending on the research questions. According to Creswell, this type of mixed methods study does not make a distinction between the quantitative and qualitative methods. The analysis gives that linkage between results collected from the field.

The strategy usually integrates the results of the two methods during the interpretation of data. During the interpretation of results, the researcher integrated the results by interpreting and analysing data collected from the field, and giving results based on the convergence of the findings. According to Creswell, the interpretation can either note the convergence of the findings as a way to strengthen the knowledge claims of the study or explain any lack of convergence that may result.

According to Creswell, this model has the following advantages: it is familiar to most researchers and can result in well-validated and substantial findings, and the concurrent data collection results

in a shorter data collection time as compared to other models of sequential approaches (Creswell, 2003). In the words of Kumar (2011), the qualitative-quantitative approach to research is comprehensive and worth consideration. It also has a lot of limitations as it requires great effort and expertise to adequately study a phenomenon with two separate methods, it can also be difficult to compare the results of the two analyses using data of different forms and finally, the researcher may be unclear on how to resolve discrepancies that arise in the results. To resolve these limitations in the study, the researcher studied the application of quantitative and qualitative methods and sorted discrepancies by addressing issues emerging from objectives and the questions asked.

Qualitative analysis, as explained by Cooper and Schneider (2008), is recommended that content analysis helps to bring issues to the forefront that would not have otherwise been captured through the use of structured questions and interviews. The most commonly used technique is descriptive statistics where findings were then presented using frequencies and percentages with their specific tables, bar charts, pie charts and graphs and line graphs. In this research, a combination of content analysis and descriptive statistics was used in the analysis. Qualitatively, in the text, descriptions of behaviour and the context in which they occurred were given while the 'voices' of the participants were quoted in the text. Pictures were also used to illustrate the images.

## CHAPTER FOUR

### DATA ANALYSIS, PRESENTATION AND INTERPRETATION

#### 4.0 Introduction

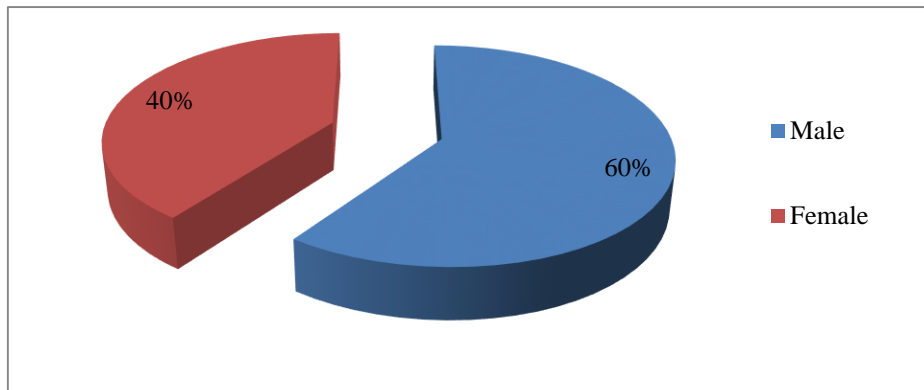
This chapter presents the analysis of data that were collected from the respondents, former ECK officials and Focused Group Discussion members. The chapter addresses findings from the study objectives that sought to examine the implications of electoral management practices for ethnic relations in the 2007 general elections in Uasin Gishu and Trans Nzoia Counties.

#### 4.1 Demographic Data

This part of the chapter presents the demographic information of the respondents and informants.

##### 4.1.1 Gender of the Respondents

From the findings, the male respondents were 196 (60%) while females were 129 (40%). Although there was no direct objective on gender, the consideration of gender in the study was not to be ignored because, in practice, gender dynamics influence the participation of General Elections and violence in any electioneering period. These findings are shown in **Figure 4.1** below.



**Figure 4.1: Gender of the Respondents**

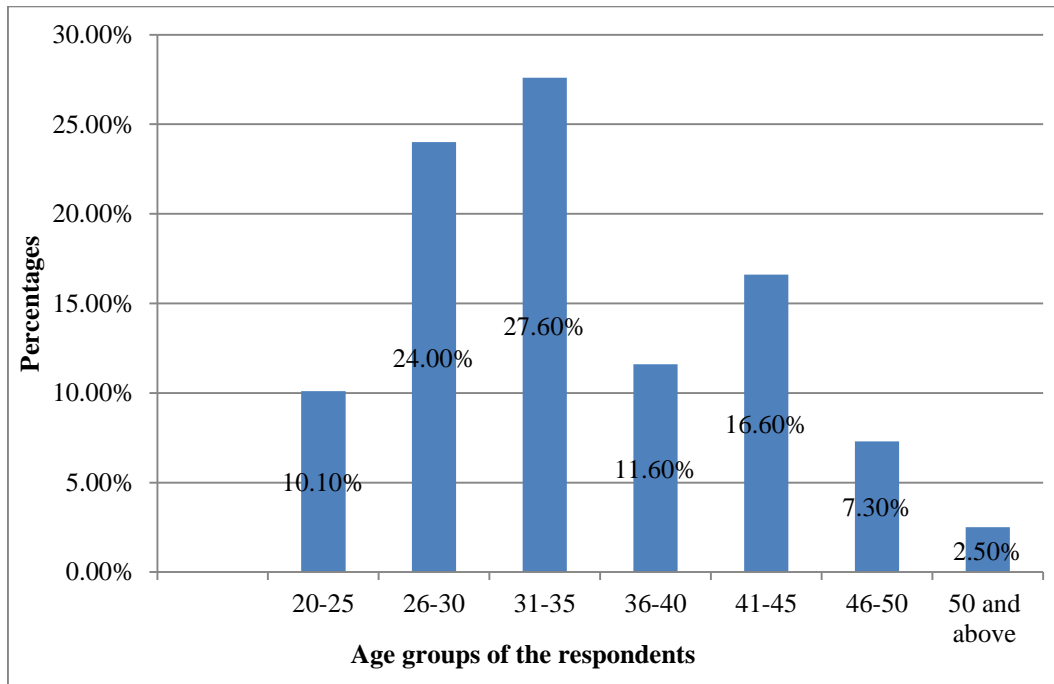
The results showed that there were more males in the study than females. More men turned up during the study and were willing to fill out the questionnaires which were provided. From this analysis, it demonstrates that male are proactive in dealing with issues on elections as compared to female who are not active in this field. This portrays that male have influence on electoral management practices which has an impact on interethnic relations in the two counties.

#### **4.1.2 Age of the respondents**

The researcher sought to establish the age of the respondents because age is a demographic feature that affects behaviour or perceptions. This data has been presented in Figure 4.2. Among the respondents who participated in the study, the highest number fell in the age bracket of 31-35 who were 90 (27.6%), followed by those in the age bracket of 26-30 who were 78 (24%), then 41-45 who were 54 (16.6%) and the lowest 8 (2.5%) were those above 50 years.

These statistics implied that the majority of those who participated in the study were between the ages of 31-35, followed by those aged 26-30 who largely represented youths. These groups are known in the politics of Kenya to be very active and are easily manipulated by politicians for their selfish gain (CIPEV, 2014). This is evidenced in the aftermath of the 2007 General Election violence when the youths put up checkpoints along highways to target perceived ethnic enemies

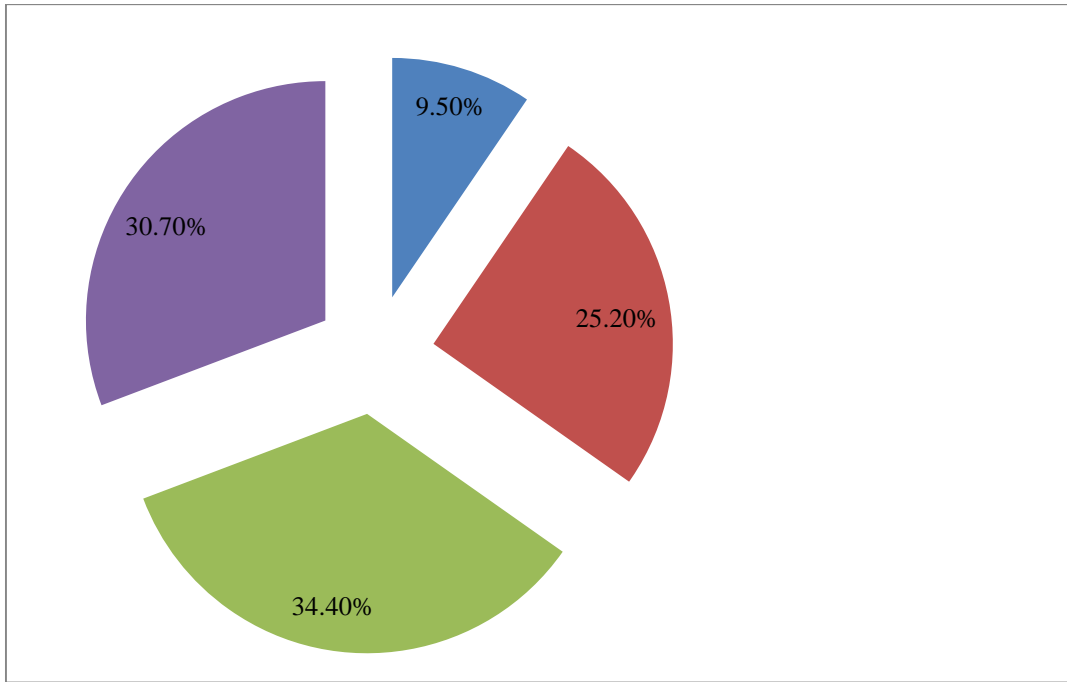
and other travellers. It shows that during elections, the youth are known to be the ones used by the politicians to disrupt the smooth running of elections thus leading to electoral malpractices which This is contrary to the views of Gabriella (2015) that young people are a major determinant of the outcome of an election because more than 60 percent of Nigeria voters are young but youth across the country are campaigning for peaceful elections.



**Figure 4.2: Age of Respondents**

#### **4.1.3 Respondents' duration of stay in their area of residence**

The study intended to find out how many years the respondents had lived in the study area. Of the respondents who participated in the study, 112 (34.40%) had stayed in their respective areas for 16-20 years followed by those who have stayed for over 20 years were 100 (30.7%), 10-15 years were 25.20% and the rest (9.5%) had lived for less than five years. These results are presented in Figure 4.3.



**Figure 4.3: Respondents' Duration of Stay in the Area of Residence**

This meant that those who had stayed longer had a better understanding of General Election violence in those areas than those who had stayed for a few years. An elderly male participant from FGD remarked,

“I have lived here for more than twenty years and I understand the game of politics here more than anybody else”. (FGD, Burnt Forest shopping centre, 3 August 2015).

This means that the participant understands his area very well because of his long duration.

Another young man participant from an FGD in Burnt Forest lamented,

“I have only stayed here for almost four years but with a lot of suspicion and mistrust. If I am given an option, I would leave this place immediately.” (FGD, Burnt Forest shopping centre, 3 August 2015 from 2.00 to 4.00 pm) .

From his expression, the stay in this environment is not conducive but circumstances force him to stay. What the researcher deduced from these interviews showed that those who had stayed for a longer period understood the dynamics of politics in the area than the new residents. From the study, it emerged that the problem of General Elections violence and inter-ethnic relations has

been lingering for years and years among different communities and thus has become a common phenomenon that needs serious intervention.

From the analysis of different target groups, the information gathered seemed to have a similar understanding of the study areas. Those who have stayed longer are in a better position to understand the dynamics of politics than the new residents in the areas of study. Therefore, according to analysis, election violence has been a common threat to the residents of Burnt Forest in Uasin Gishu and Kachibora in Trans Nzoia, Counties affecting interethnic relations.

## **4.2 Pattern of Electoral Management that Influenced Interethnic Relations in 2007**

### **General Election Violence in Uasin Gishu and Trans-Nzoia Counties**

The first objective sought to establish the pattern of electoral management practices on interethnic relations in the 2007 election violence in Uasin Gishu and Trans-Nzoia Counties. In particular, the study considered the pattern of electoral practices by the ECK officials and the consequent events leading to electoral violence in the aftermath of the 2007 General Elections.

#### **4.2.1 Registration of voters**

**Table 4.1: Registration of voters carried out in Trans Nzoia County**

<b>Frequency</b>	<b>Per cent</b>
Effective	57.1
Very effective	42.9
<b>Total</b>	<b>100.0</b>

The study results indicated that all the polling clerks (100.0%) did voter registration. As to whether the registration of the voter was effective, it was found that (57.1%) of the victims respondents from Kachibora in Trans Nzoia County said that registration of voters was effective



and 42.9% of the victim respondents from Kachibora in Trans Nzoia County said that registration of voters was very effective as shown in table 4.1. This is contrary to the findings conducted by Mutua,(2008) that it is estimated that around 1 million youths were not allowed to register to vote because they were denied the national identity cards needed to register which in Roberts’s (2009) interpretation is an example of structural violence. For one to qualify as a voter, an identity card is required according to election laws in Kenya Election Act, (2011).

On the same note, an interview was conducted with an ECK registration clerk to find out if registration was conducted per the rules of the electoral management body. One ECK registration clerk in Kachibora in Trans Nzoia County said,

“I was selected based on merit because I passed very well in form four” (Oral interview, Seum, 11 March 2021).

Another one said,

“I was selected because I was related to the area chief though I possessed the required credentials” (Oral interview, Kaplamai, 12 March 2021).

This could mean that selection was not properly done based on the requirements given. The area chiefs had a hand in the selection process. This goes against Election Act (2011) which states that any registration clerk must be a resident in the constituency, ward and registration area in which they applied. This contributed to mistrust in the registration process.

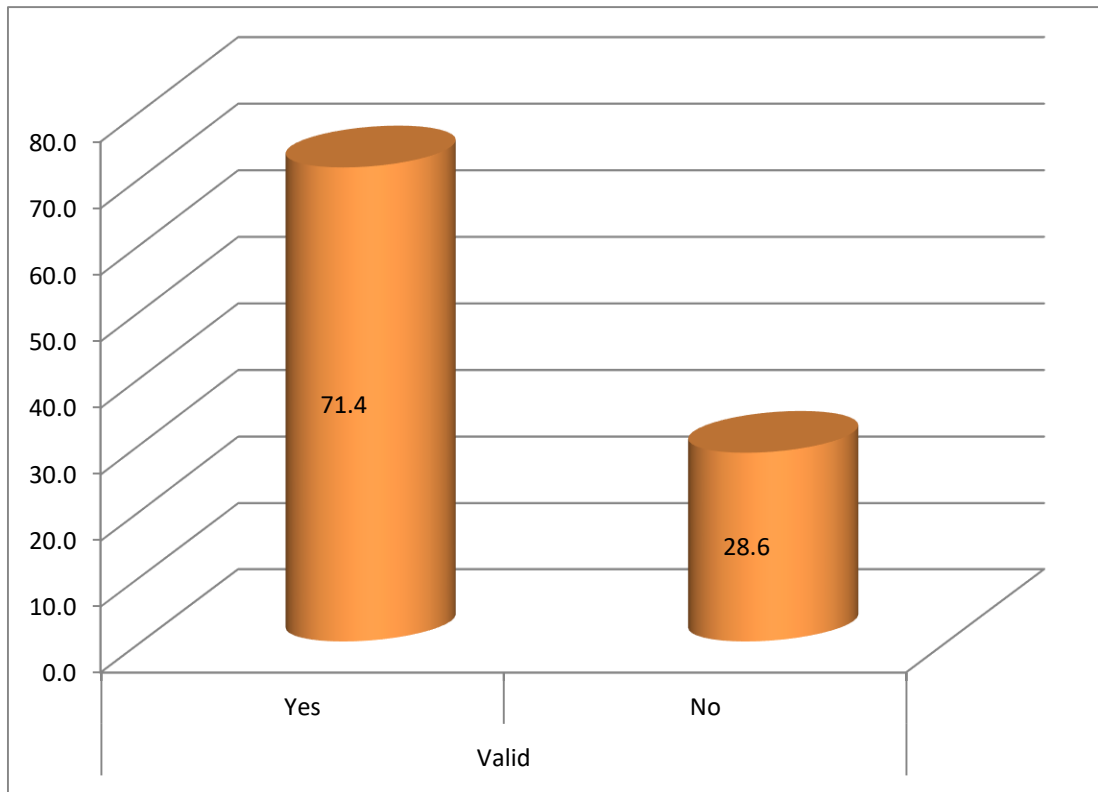
**Table 4.2: Registration of Voters in Burnt Forest in Uasin Gishu County**

<b>Frequency</b>	<b>Percent</b>
Effective	85.7
Very effective	14.3
<b>Total</b>	<b>100.0</b>

Also, similar research was conducted in Burnt Forest in Uasin Gishu to determine how the registration of voters was carried out. It was found that 85.7% of the respondents in Uasin Gishu County said that registration of voters was effective and 14.3 of the respondents in Uasin Gishu County said that registration of voters was very effective as shown in Table 4.2 above. This is contrary to Kreigler Commission Report that a fresh voter registration is necessary which would clear doubts on future electoral malpractices. The findings contradict the findings in Krigler's report of 2008. Owuor, (2013) reiterated that it is not for the sake of getting a new voter register but to premise voter registration on higher principles of accuracy, variability and the principles articulated in the constitution.

From the above findings, voter registration did not contribute to negative interethnic relations in the two counties. A high percentage showed that the respondents said registration of voters was effective meaning that the registration process was smooth. Though it contradicts the information collected from an ECK registration clerk. The registration clerk in Uasin Gishu said that some people were returned because they did not have identity cards but possessed waiting receipts from identity cards registration centres and others did not have identity cards but possessed abstracts from police stations because they had lost their identity cards. That leads to interethnic relations becoming sore thus leading to election violence. In Trans Nzoia, there were similar responses from key informants that corruption was part of the process because, in the recruitment process, government officers had an upper hand in it. This meant that the whole process of registration recruitment was interfered with by the ECK officials and the government's provincial administration. On the other hand, those who filled out the questionnaires in the two counties said that the process was very effective. That meant that those who filled in were not aware of what the officers were doing with respect to the registration of voters.

#### 4.2.2 Adequacy of time



**Figure 4.4: Adequacy of time to carry out registration of voters in Uasin Gishu and Trans Nzoia counties**

The study findings revealed that 71.4% of the respondents in both Uasin Gishu and Trans Nzoia Counties accepted that ECK was accorded enough time to carry out registration of voters in Uasin Gishu and Trans Nzoia Counties which is contrary to Birch and Allens that electoral malpractices entail the manipulation of rules and manipulation of voters during the registration process and 28.6% of the respondents in both Uasin Gishu and Trans Nzoia counties denied that ECK was accorded enough time to carry out registration of voters in Uasin Gishu and Trans Nzoia counties. This could be because registration is given three months which is sufficient for electorates who understand the importance of voting.

**Table 4.3: Adequacy of Time to Carry Out Registration of Voters in Trans Nzoia County**

<b>Frequency</b>	<b>Percent</b>
Yes	43.5%
No	55.5%
<b>Total</b>	<b>100.0</b>

On the other hand, the study findings revealed that 43.5% of the respondents in Kachibora in Trans Nzoia Counties accepted that ECK was accorded enough time to carry out the registration of voters and 55.5% of the respondents in Trans Nzoia County denied that ECK was accorded enough time to carry out registration of voters. A young woman FGD in Kachibora said,

Registration of voters in Kachibora was given little time to register all the voters who had not been registered. This was attributed to logistics and complaints from the registration clerks”. (FGD, Kachibora, 22 August 2015).

Therefore, the registration of voters in Kachibora was not concurring with the findings collected from the respondents who answered questionnaires. Those who participated in the FGD said that the time given was not sufficient which could have contributed to malpractices impacting negatively on the interethnic relations leading to election violence. In Uasin Gishu, the respondents said the time given was sufficient enough to conduct the registration process. Therefore, there was no convergence of results in the two counties. This meant that those who filled out the questionnaires were not sure because they did not have information about those who missed registration. Therefore, the researchers' view is that enough time was not accorded for registration which contributed to election malpractices. Kenya’s constitution states that all who are eligible should be given opportunities to exercise their rights as voters.

### 4.2.3 Conduct of civic education

**Table 4.4: Reasons for conducting Civic Education in Uasin Gishu.**

<b>Reasons</b>	<b>Per cent</b>
Less information was given to electorates	57.1
All eligible voters did not register	28.6
Voters understood voting process	14.3
<b>Total</b>	<b>100.0</b>

The study findings from the former ECK clerks indicated that 57.1% of the respondents said that civic education was not conducted properly because less information was given to the electorates in both Uasin Gishu and Trans Nzoia, similarly, 28.6% of the respondents stated that civic education was not conducted properly because not all eligible voters were registered and finally, 14.3% of the respondents believed that civic education was conducted properly because the voting process was clear to voters in Uasin Gishu and Trans Nzoia counties during the 2007 General Elections as displayed in the table above.

In Trans Nzoia County, an elderly interviewee from FGD said that little information was given to electorates concerning the voting process. That the information they got was via a media house (Kenya Broadcasting Corporation) which was not accessed by the majority in the county. Trans Nzoia County said that information concerning the voting process was disseminated to the population fully. That the issue of registration of voters was given to the electorates at the right time. This could be because government officials will want to portray a good picture of the government.

In Uasin Gishu County, a political aspirant said that the majority of voters were not aware of the voting process which was why the voting queues were slow leading to some voters leaving polling

stations without voting and other electorates were left out because time could not allow them to exercise their right of casting votes. Therefore, there were no discrepancies between the respondents who filled out the questionnaires and those who were interviewed face-to-face. Thus, dissemination of information was not sufficient to enable voters to understand the voting process. This could lead to election malpractices contributing to negative interethnic relations. That could spark violence during elections.

#### 4.2.4 Selection of ECK Officials

**Table 4.5: Criteria used in Selecting ECK Officials**

<b>Criteria used</b>	<b>Frequencies</b>	<b>Per cent</b>
Criteria used in selecting electoral officials	Merit	30.4%
	Experience	30.4%
	Patronage	13.0%
	Ethnic	26.1%
<b>Total</b>		<b>100.0%</b>

Dichotomy group tabulated at value 1.

The research was conducted to find out the criteria used in selecting ECK officials and after the analysis, the findings indicated that 30.4% of ECK officials were selected on merit and experience respectively, 13.0% of ECK officials were selected on patronage and finally 26.1% of ECK officials were selected based on ethnicity as illustrated in Table 4.5.

From the findings, the majority of the respondents said that the criteria used in selecting ECK officials were merit and experience. This concurs with the qualification drafted by the ECK commission on the appointment of returning and deputy returning officers. According to Owiti, (2008), the ECK developed job descriptions and qualification requirements for each post. The posts were advertised, and selection panels were set up at each level as appropriate for example, returning and deputy returning officers, are selected centrally by the ECK itself, from a database

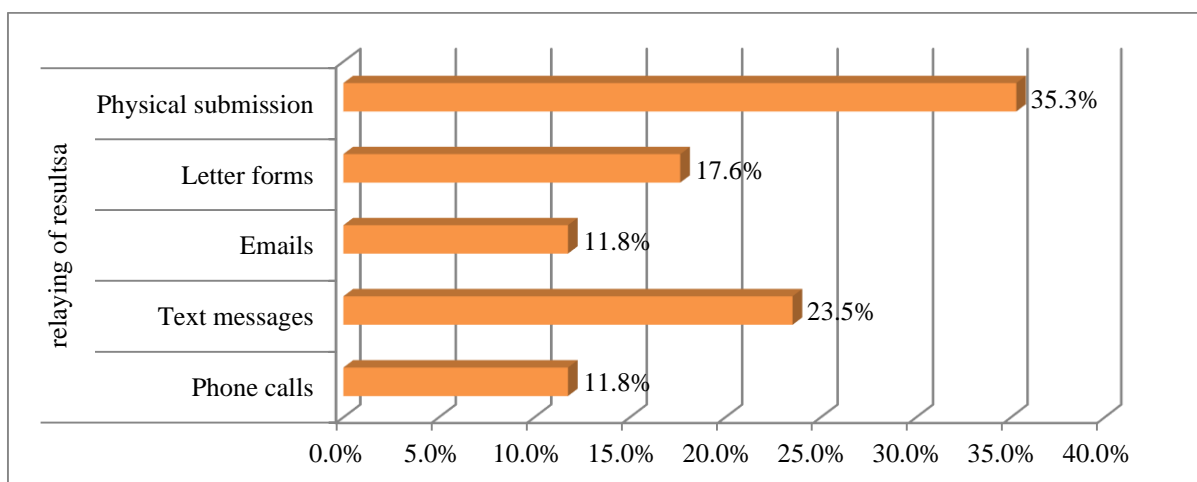
of personnel who have had similar experience in the past, as well as fresh applicants who meet the established criteria.

An interview was carried out with a political aspirant (PNU Councillor) in Burnt Forest to find out if the selection of returning and presiding officers was conducted per the rules and regulations of the electoral management body. This is what he said, “ethnicity was taking centre stage because some friends applied but were not selected since they were from minority tribes in the constituency”.(Oral interview, Kodoo farm,6 March 2021). This is contrary to what was collected from the questionnaires because the respondents were of the view that selection was based on merit. In Trans Nzoia County, an interviewee polling clerk from one of the polling stations had this to say,

Selection of ECK officials were done mainly on patronage. The majority of the officials were selected from those who were from the majority communities at the expense of others. That was very painful for those who had qualifications but from minority groups” (Oral interview, Makutano,4 April 2021).

This may have contributed to election malpractices from the electoral management body not strictly following the required rules and regulations thus creating animosity among interethnic relations which ignited election violence in the 2007 General Elections. Ethnic groups lost trust in the election body which is a recipe for violence among communities. From the different methods used in collecting data, discrepancies were emerging between key informants and those who answered questionnaires. Those who were interviewed face to face said that malpractices were common because recruitment was based on patronage and ethnicity while the respondents said that it was on merit. It could be because the respondents did not have first-hand information as compared to the ECK officials who were part of the management body. The researcher’s view is that ethnicity and patronage were given a lot of weight implying that malpractices within the electoral body were common which contributed to election violence.

#### 4.2.4 Relay of election result



**Figure 4.5: Relaying of Results to Tallying Centres**

The research was conducted in Uasin Gishu County, and Trans Nzoia, Kachibora study area, to find out how results were relayed to tallying centres and the participants gave the following information: Among the ECK clerks, 11.8% agreed it was tallied via phone calls and emails respectively, 23.5% agreed it was on text messages, 17.6% agreed it was letter forms and finally 35.3% agreed it was by physical submission as illustrated in the figure above. One of the presiding officers in an interview said,

Most of the election results were relayed using physical submission where the presiding officers took the results tallied in the polling stations to tallying centres in the constituency”.(Oral interview, Burnt Forest 11 Nov. 2015).

This meant that relaying of results was done using physical submission by presiding officers and using other ways such as emails, letter forms and text messages was minimal.

The implications of the relay of results to the tallying stations had some effects on the interethnic relations because the general public did not trust so much on the idea of using physical submission but results could easily be changed on the way to tallying centres. One irritated councilor from Kachibora said that the results he received from his ODM agents changed from 501 to 306 in one



of the polling stations in the Naigam area. That could have easily sparked electoral violence during the announcement of election results. That difference could ignite violence among the electorates leading to interethnic relations.

#### 4.2.5 Electoral Mandate

**Table 4.6: Mandate of Electoral Officials in Accordance with ECK Rules and Regulations**

<b>Response</b>	<b>Numbers</b>	<b>Percent</b>
No response	7	2.1%
No	73	22.5%
Yes	245	75.4%

The following findings were obtained from those respondents who answered questionnaires and those who were interviewed. The results indicated that 73 (22.5%) of the victims' respondents said that the officials of the Election Commission of Kenya were not doing enough per the requirements from the rules and regulations of the ECK. Those who agreed that they were doing their work as required by the rules and regulations were 245 (75.5%) and only 7 (2.1%) did not respond.

The results showed that 22.2% of the victims who participated in answering the questionnaire reiterated that it was contrary to the expectations from the ECK. This could be because most of the officials were majorly from one ethnic community and during elections; voters believed that voting patterns should be done based on their tribal communities. This has been a pattern prevailing in Kenya before and after the advent of multi-party politics as stated by Adeagbo and Iyi (2011) who said that social relations between the dominant ethnic groups - the Kalenjin and the Kikuyu - had been frosty since pre-colonial days and the demand for, and control of, scarce

arable land often resulted into electoral violence. This is evidenced by the 1992, 1997 and 2007 election violence respectively

This acrimonious relationship has constantly undergone generational dynamics metamorphosing but never really going away. This could be a result of the training given to them by the officials of the ECK who were permanently employed. Among the presiding officers interviewed, the ECK presiding officials complained that the training given to them was not sufficient which hindered them from performing their duties well. This is evidenced as a result of having presiding officials who are temporarily in employment as indicated in the Election Act of 2011. ECK officials should be employed on permanent terms. According to IED, (1997), competence is a function of several factors including the level of training of election officials, adequate financial resources for the electoral body, and adequate administrative arrangements for handling elections. This could be the reason why they did not do their work per the rules and regulations entailed in the elections act 2011.

Those who said they were doing the right thing per rules and regulations were 75.5% in Uasin Gishu County, Burnt Forest study area. This could be because a majority of the officials were from the majority ethnic group. This concurred with what Kimenyi (1997) found in his study saying that it has been established that ethnic identification is very strong in Kenya and because violence has been organised along ethnic lines, violence is purely attributed to ethnic hatred. This hatred is linked to electoral politics and competition over available resources. It is assumed that voting would proceed along ethnic lines.

The ECK counting clerks gave a similar response on how they performed their duties. They responded that the majority of them were doing their work per the rules provided within Election Act which was adopted in 2011. One ECK polling clerk who was a respondent said that most of the officials from presiding officers and clerks were majorly from the majority ethnic groups from

the surrounding areas. This simply indicated that the trend was that officials employed temporarily were from the surrounding communities. The few victims who participated did not respond were not aware of the work of the ECK officials or maybe had no interest at all. These were the victims who feared victimization and some suffered seriously the consequences of interethnic relations which contributed to election violence in the 2007 General Elections.

#### **4.2.6 Organisational and Environmental Contexts of Elections**

Qualitative data was analysed to find out the factors that affected electoral officials in conducting the 2007 General Elections in Uasin Gishu and Trans-Nzoia counties. The factors included poor roads, breakdown of vehicles, rains, insecurity, intimidation, threats, and inadequate personnel on polling day as well as inadequate funds. ECK officials gave the factors that affected them in conducting smooth elections. The factors given by respondents included vehicles to transport polling materials were not proper and lack of good coordination from returning officers which has been a trend in all General Elections in Kenya since 1992.

##### **4.2.6.1 Insecurity**

Insecurity came out strongly among the participants. The polling clerks who were managing elections in the interior parts of Burnt Forest feared the outcome of election results which made them fear for their lives and especially those who came from minority groups. According to Lyons (2004) elections conducted under circumstances of mistrust and suspicion is generally in many post-conflict and newly democratizing countries. Kenya is a unique case because it does not fall into this category. In Uasin Gishu County, an agent who was interviewed said,

Being one of the officials in a polling station, I was very scared not knowing what to do because people were talking in parables expecting to get results the way they anticipated”. (*Oral interview, Olengise, 7 March 2021*)

This meant that people around the polling areas were expecting to win elections at all costs. It contributed to interethnic relations leading to animosity among different ethnic groups. This situation is volatile because it is a recipe for electoral violence.

#### **4.2.6.2 Intimidation and threats**

Intimidation and threats were mentioned by most victims who were respondents in the study that some officials and even members of the public were facing threats from security officers. Insecurity was also mentioned by presiding and polling clerks that orders from them were not received well by the security enforcers creating tensions between the two parties of PNU and ODM. This is consistent with Hoglund (2009) that in societies where patronage politics is prevalent, security forces and even judiciaries often encounter coercion and manipulations from political elites which in turn hinders them from becoming efficient instruments in resolving conflicts. This is contrary in the sense that the security forces were working in favour of the political elites. One of the young men in an FGD in Trans Nzoia County said,

“There was tight security around the voting area and some voters were not allowed to enter the station claiming that they would cause some disturbances in the queues”. (FGD, Kachibora, 23 May 2015).

This was an outright denial to electorates to exercise their right to vote. This made members of the opposition to mistrust the electoral body in the conduct of elections. As a result, it contributes to ethnic relations becoming sore. This created hatred among communities contributing to violence during elections.

#### **4.2.6.3 Inadequate personnel**

Inadequate personnel were also mentioned by the victims that during polling days in some polling stations, queues were very long making some voters leave stations early. This denied the voters their rights as outlined clearly in the constitution that every person has a right to vote so long as he or she meets voter requirements. The idea of denying the voters their rights to vote is contrary

to the principles of the constitutional and legal order in Kenya that requires the electoral system to comply with the principle of freedom of citizens to exercise their political rights spelt out in article 38 of the constitution and the principle of universal suffrage based on the aspiration for fair representation and equality to vote (Onyoya & Willis, 2012). This is evidenced when an agent in Trans Nzoia County, Kachibora study area said that the queues were very long, and it forced the officials to extend the time for voting. Though time was extended, many voters left the voting queues early before exercising their right to vote. This meant that voters who were ready to vote gave up and left polling stations because of the slow process. This denied the electorates their right to cast their votes.

#### **4.2.6.4 Breakdown of vehicles**

An ECK polling clerk respondent in Kachibora in Trans Nzoia cited a case where vehicles were hired to transport materials to polling stations. She said that a vehicle broke down on the way which delayed the whole process. One of the young man interviewees in a Focus Group Discussion in Burnt Forest said,

The vehicle we were using broke down on the road while transporting materials to the interior part of Burnt Forest. There was no other vehicle to transport the ballot boxes, voting materials, officials and even agents of different parties. We waited until 10.00 am when a government vehicle was sent to assist.” (FGD, Burnt Forest Centre 3 August 2015 2.00 to 4.00 pm).

This disagrees with Wanyande’s views that an independent electoral body is crucial for the conduct of free and fair elections: but does not guarantee that the elections will at any cost be fairly managed. This meant that the process was delayed as a result of the vehicle which broke down not being replaced on time due to poor management of ECK and other forces.

#### **4.2.6.5 Inadequate funds**

Inadequate funds were also mentioned by ECK returning officials claiming that money given to drivers to fuel their vehicles for transportation was not enough leading to a misunderstanding

between officials of ECK and the drivers concerned in Uasin Gishu County. Others mentioned that the finance which was given to them during training sessions was not adequate.

According to IED (1998), part of the ECK's problem stems from the fact that it relies heavily on the state to facilitate its work. The treasury funds its operations, including conducting elections and by-elections. In a Focus Group Discussion, an informant said that there was an incident when a driver who was hired became arrogant because he was not given enough money to fuel his vehicle and he dropped all the officials and voting materials in the middle of the road. Further, he added that the situation was sorted when a Samaritan assisted them which was against the rules of the election commission. This meant that the entire team was helpless because the officials were not given money for emergencies which is very necessary for any circumstance.

Likewise in Trans Nzoia County, an interview conducted with a young woman participant in an FGD said that she overheard complaints from counting clerks claiming they were given a lot of responsibility but the funds entitled to them were not enough for their upkeep. This meant that ECK lacked enough funds to carry out its responsibilities.

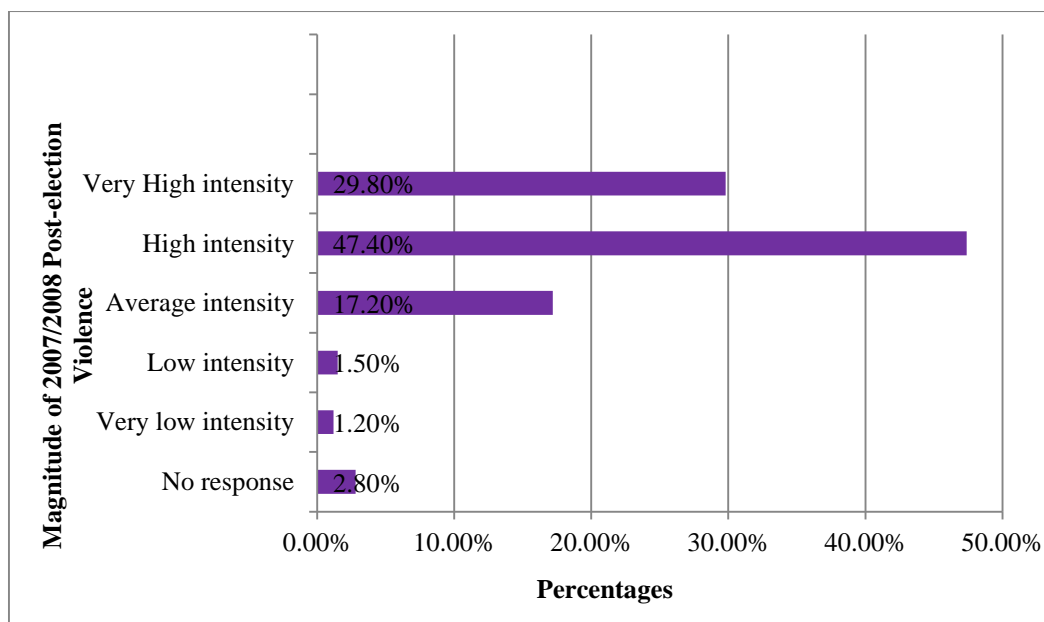
From the data collected from the ECK officials, it emerges that organizational and environmental factors were in existence which hampered the smooth running of elections thus contributing to the failure of electoral management in conducting elections.

#### **4.2.7 Nature of general election violence**

The nature of post-election violence in 2008 resulted in casualties and loss of properties as highlighted below.

#### 4.2.7.1 Magnitude of 2007 general election violence

The respondents were asked to rate the magnitude of the 2007 post-election violence in Kachibora, Trans Nzoia County.



**Figure 4.6: Magnitude of 2007 General Election Violence**

The majority of the victims who participated said that 154 (47.4%) indicated that the post-election violence was of a high intensity followed by 97 (29.8%) who said it was of a very high intensity, 56 (17.2%) reiterated that it was of an average intensity, 5 (1.5%) said that it was of a low intensity and the least number attributed it to very low intensity 4 (1.2%). The other 9 (2.8%) respondents had nothing to say.

From the above findings, the magnitude of General Election violence was high with 47.4% of respondents saying that it brought a lot of destruction. This was because people lost lives, properties and it caused a lot of displacements. An elderly woman participant in an FGD in Burnt Forest said, “We lost completely everything”. (FGD, Kondoo Farm, 20 August 2015). This meant that it was of a very high magnitude because they did not save anything; however, they survived.

The results, therefore, showed that the General Election violence was of high intensity. It was of high intensity because people lost lives, property was destroyed and many people were internally displaced. This is in agreement with what Maupeu (2008) reported in his findings, that the magnitude of the trauma and structural violence that took place, took both Kenyans and the international community by surprise. This was further elaborated by Roberts (2014) when he said that the carnage was horrific, it left 1500 dead, 3000 innocent women raped and 300,000 internally displaced.

#### 4.2.8 The nature of the 2007 post-election

**Table 4.7** shows the results of post-election respondents concerning the description of the post-election violence of 2007 in Uasin Gishu and Trans-Nzoia Counties.

**Table 4.7: The Characteristics of 2007 General Election Election Violence**

Characteristics	Less likely		Moderately		Not sure		Most likely		Total
	Freq	%	Freq	%	Freq	%	Freq	%	
Political	51	15.7	37	11.4	14	4.3	223	68.6	325(100%)
Electoral management	45	13.8	96	29.5	44	13.5	140	53.1	325(100%)
Economic	174	53.5	61	18.8	52	16.0	38	11.7	325(100%)
Ethnic Animositities	21	6.5	18	5.5	34	10.5	252	77.5	325(100%)

**Table 4.7** reveals that the majority of the victims who participated in the questionnaire, 252 (77.5%) said that ethnic animositities characterised the post-election violence of 2007. This is attributed to what the country has been experiencing since the advent of multi-party politics in Kenya. This reflects what Kagwanja (1998) said that the result of the 1992 election violence was



the retribalization of politics and the erosion of civic nationhood. From the findings, 223 (68.6%) of the victims' respondents said that the post-election violence of 2007 was characterized by political issues. The respondents emphasised that violence was political and it was a trend in General Election violence.

Kenyan politics involves a lot of political incitement based on self-interest. This concurs with the view that in the African context, political power is considered a major social good because those who hold it have significant control over a variety of other social goods hence violence becomes inevitable (Fortman, 2000). On the other hand, it contradicts Nasong'o's (1997) argument that violence is because of the skewed nature of resource allocation and lack of effective political institutions.

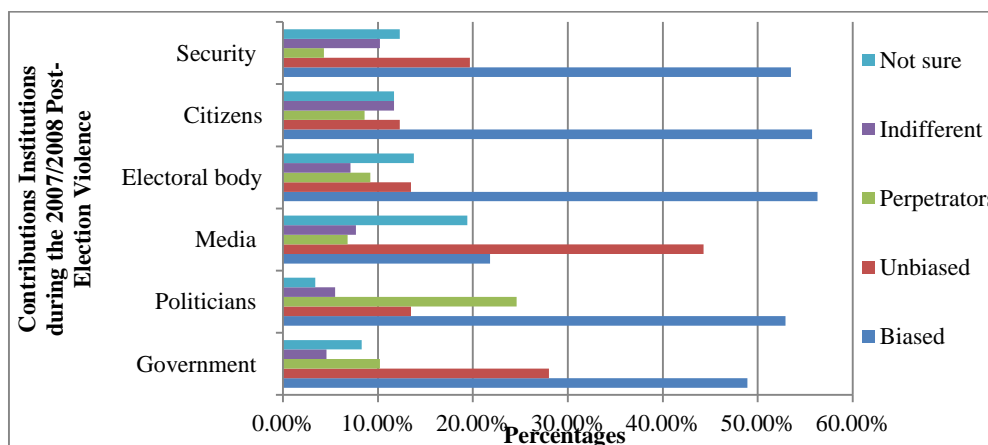
Data collected revealed that 140 (53.1%) of the victims who participated in the study in Burnt Forest believed that the electoral commission was the most likely contributor to inter-ethnic animosity leading to the post-election violence of 2007. This meant that during the General Election of 2007, the electoral commission was seen to have been manipulated by the government in power. This is consistent with Birch and Allen (2010) that voting manipulation consists of electoral mal-administration such as ballot box stuffing, misreporting, under-provision of voting facilities in opposition strong-holds, lack of transparency in the organization of the election and bias in the way of electoral disputes are adjudicated in the courts.

In a Focus Group Discussion, an elderly man participant in Trans Nzoia County said, "*The government was meant to be formed by Raila's team but manipulations are common in Kenya*". (FGD, Makutano, 23 August 2015). This participant meant that Raila won the elections. Another elderly man participant in an FGD in Uasin Gishu county said, "*Elections were stolen and that is why ODM did not win elections.*" (FGD, Burnt Forest 3 August 2015). From the distributed questionnaires and interviews from Focused Group Discussion, there were close similarities in

the information collected from both methods in study areas. The majority of the voters from those particular areas were ODM supporters. It is contrary to the views of Sisk (2008), that in a patronage and identity politics society, those who hold political offices enjoy greater control over various economic resources and public services and distribute these resources and services to their clients or ethnic groups in return for political support.

Other characteristics featured from the respondents were that the General Election violence was sporadic and it made Kenyans fight one another across the country. The Kalenjin, Luo and many other tribes fought the Kikuyu. The retaliatory attacks occurred over what they alleged were stolen votes. An election agent interviewee in Uasin Gishu county said, “*General Election violence was sporadic all over the country*”. (Oral interview, Burnt Forest shopping centre, 7 March 2021). Another young woman in Trans Nzoia County said, “*General Election violence was sporadic because it was felt in most of the counties in Kenya*”. (Oral interview, Kachibora, 22 August 2015). This resulted in interethnic relations which had negative implications for different ethnic communities.

#### 4.2.9 Contributions of various bodies during the 2007 general election violence



**Figure 4.4: Contributions of Various Bodies during the 2007 Post-Election**

Data from the victims who answered questionnaires, the study revealed that 159 (48.9%) said the government was biased, and 172 (52.9%) of the victims said politicians were biased. Of those victims who blamed the media for being biased 71 (21.8%) while 183 (56.3%) said the electoral body was biased.

Of those who believed that citizens were biased 181 (55.7%) and only 32 (9.8%) believed that NGOs were biased. Those who believed that the institutions were not biased during the 2007 post-election violence were as follows: the government was 91 (28.0%), politicians were 44 (13.5%), electoral body was 44 (13.5%), citizens were 40 (12.3%), security was 64 (19.7%) and NGOs were 190 (58.5%). Those who believed they were perpetrators were as follows: Government 33 (10.2%), politicians 80 (24.6%), media 22 (6.8%), electoral body 30 (9.2%), citizens 28 (8.6%), security 14 (4.3%) and NGOs 5 (1.5%).

Respondents who said that they were indifferent were as follows: Government 15 (4.6%), politicians 18 (5.5%), media 25 (7.7%), electoral body 23 (7.1%), citizens 38 (11.7%), security 33 (10.2%), and NGOs 16 (4.9%). The following respondents were not sure about the contributions of the institutions during the 2007 post-election violence: Government 27 (8.3%), politicians 11 (3.4%), media (19.4%), electoral body 45 (13.8%), citizens 38 (11.7%), security 33 (10.2%) and NGOs were 82 (25.2%).

From the findings, it was revealed that the majority of the victims in Kachibora (55.7%) said that the electoral body was biased in dealing with the election results of the 2007 General Elections. This is consistent with Jarstad's (2008) findings that where political bias is prevalent, lack of impartiality, independence and competence on the part of election administration institutions, there is a high likelihood for election violence. This was the scenario in interethnic election violence.

In an FGD in Uasin Gishu County, a young woman participant said, “*The government organizing machinery was favouring one community, the ‘Kikuyu’*.” (FGD, Burnt Forest, 16 August, 2015). It meant that the government in power was seen by the informant to be favouring the Kikuyu community since the incumbent was hailed from the same tribe. This concurs with Nyong'o (1993) that African leaders have the propensity to use state power and institutions to promote their interests or those of their ethnic groups. From the assessment done, the majority of the respondents believed that electoral machinery contributed immensely as compared to views from those interviewed. This is because the respondents were filling out the questionnaires based on the general information displayed on the national media transmitters as compared to those who were asked questions face to face.

This contradicts the views of the ECK officials who said that they performed their duties well without favour or fear. An ECK polling clerk who was interviewed from Trans Nzoia said they, served all electorates equally without discrimination of ethnic group, race, party affiliation or religion. This could mean that everybody was taken on board without favour. This is contrary to the views of one polling clerk from Burnt Forest who said that in the station she served, there was favoritism from a particular group of people who were the majority.

Another young woman participant from FGD in Trans Nzoia County said,

“The perception of ODM supporters winning elections was curtailed by security enforcers who were favouring voters from the other political divide.” (FGD, Kachibora Centre, 22 August 2015).

From this statement, the interviewee meant that the loss of the ODM party was because of the security enforcers who manipulated the results. The results were handled by the electoral commission and not the security. This is consistent with what Jastard (2008) found in his study that in partial, lack of independence and competence on the part of election administration

institutions, election violence is a possibility. This contributes to ethnic animosities leading to violence.

Most of the victim respondents (58.5%) who answered questionnaires said that NGOs were not biased during the 2007 post-election violence. During an interview conducted with a camp administrator in Uasin Gishu County said,

“They provided the victims with makeshifts for shelter without bias, conducted reconciliation meetings frequently, renovating and building new schools and markets”.(Oral interview, Langas estate Eldoret, 5 Nov. 2015)

Another said Observer in Uasin Gishu said, “*Bishop Cornelius Korir (late) from Eldoret Diocese played a crucial role in reconciling communities*”. (Oral interview, Eldoret town, 6 March, 2021).

This was a result of the support given by the bishop in providing shelter and reconciling the communities from different political parties. The role played by religious bodies reduced ethnic animosities among communities after post-election violence. That lessened the possibility of having prolonged violence in the study areas.

One presiding officer who was interviewed in Trans Nzoia County said, “*NGOs contributed a lot in helping those who were affected by post-election violence of 2008*”. (Oral interview, Kachibora, 4 Nov. 2015). Another young man participant in Trans Nzoia said “*we were given food, drugs, clothes and blankets*”. (FGD, Seum, 24 August, 2015). The interviewees’ responses, showed that those who were affected were appreciative of the performance of the NGOs during the post-election violence since they treated them fairly.

While other victims who participated were not sure about the institutions that contributed to post-election violence since they were either traumatised to discuss the issue or had no interest at all. The majority of the respondents (24.6%) believed that politicians were among the perpetrators of post-election violence. This shows that politicians played a role in the 2007 post-election violence while the NGOs with 1.5% were not involved in it. The findings from different sources have some

common characteristics for instance; all believed that NGOs did a lot of work without bias. That most of the NGOs such as the churches were concerned with humanity and had a role to help the victims without discrimination.

From the analysis, ECK officials were not revealing their malpractices in conducting elections but the respondents attributed the failure to government bias and ECK officials' mismanagement of the election process.

#### 4.2.10 ECK on Election Violence

The victims were asked about their opinion as to whether the 2007 post-election violence was caused by the Electoral Commission of Kenya (ECK). A higher proportion (88.9%) of the respondents gave an affirmative answer 'yes'. The rest (11.1%) of the respondents indicated 'no' and that the post-election violence was not caused by the ECK. The results are presented in Table 4.8.

**Table 4.8: Whether the respondent think 2007 post-violence was caused by ECK**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	289	88.9	88.9	88.9
	No	36	11.1	11.1	100.0
Total		325	100.0	100.0	

The results implied that how the ECK conducted its operations or managed the election had a link with the post-election violence. In particular, part or some structural context of electoral management practices caused the 2007 post-election violence. This is consistent with studies by Carlos (2007) that, whereas there are significant variations between different election

management within the same country, some turn violent, indicating the causation of election violence by Electoral Management Bodies (EMBs).

The respondents who were the victims from the two study areas were asked if there was any link between electoral management practices (EMP) in Uasin Gishu and Trans Nzoia Counties with the General Election Violence. Most (55.7%) of them indicated that they were very closely linked as indicated in table 4.9 below.

**Table 4.9: Similarities of EMP in Uasin Gishu and Trans-Nzoia Counties**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Very closely linked	181	55.7	55.7	55.7
	Averagely linked	144	44.3	44.3	100.0
	Total	325	100.0	100.0	

The victims who participated in the study were asked about their opinion as to whether there were any similarities between electoral management practices in Uasin Gishu and Trans-Nzoia Counties. A higher percentage of 55.7% said that there was a similarity in electoral management practices in the two counties respectively. This may have been because what took place in Trans-Nzoia and Uasin Gishu counties had the same characteristics. This finding is consistent with Adudan’s *et al.* (2011) view who opine that the first pattern of violence, which many observers perceived to be spontaneous, was the burning and looting of shops, houses and commercial outlets in the slums of Nairobi and Kisumu by youth groups. However, the study emphasised electoral violence in other parts of the country. The respondents who believed that there were no similarities between the two counties were 44.3% only. This is revealed by one of the village elders in Trans Nzoia County who was interviewed said,

In Trans Nzoia, and especially in Kachibora, quite a number of Luhyas, Kikuyu, Kalenjins, Kisii, Turkana and many others have permanent residents here but in

Burnt Forest those with permanent residents are mostly Kalenjins and Kikuyus”.  
(Oral interview, Makutano, 26 Nov.2015 from 2.00 to 3.00 pm).

This could be because, in Uasin Gishu, the major communities residing there are mostly Kalenjins and Kikuyu, unlike Trans-Nzoia where several communities are found in large numbers. Election violence was experienced in the two study areas which were created by the behavior of ECK in the conduct of the election process. That resulted in communities generating ethnic hatred which ignites violence during elections.

#### **4.2.11 Similarity of electoral management practices on 2007 post-election violence and the previous election violence**

**Table 4.10: Similarity of Electoral Management Practices on 2007 Post-Election Violence and the Previous General Election Violence of 1997**

<b>Response</b>	<b>Numbers</b>	<b>Percent</b>
No response	7	(2.1%)
Yes	73	(22.5%)
No	245	(75.4%)

From the findings, the majority 245 (75.4%) of the victims who filled out questionnaires said that the previous General Elections were not similar to the 2007 post-election violence. This was because the post-election violence of 2007 occurred after the announcement of presidential election results and it affected many parts of the country.

The study indicated that 73 (22.5%) respondents said that they were similar to the previous election violence of 1997. This was because election violence occurred during an election period. A few of the respondents 19 (5.8%) did not have anything to say. This meant that General Election violence was not similar in many aspects. One informant from the provincial administration in Uasin Gishu County remarked:



The 2007 post-election violence was uncommon in the sense that it occurred across the country almost after the announcement of presidential results at the same time and the events taking place were seen live on the televisions raising temperament and counter-attacks". (Oral interview, Kesses, 14 Nov. 2015).

The interviewee attributed that to 2007 post-election violence which was unique in the sense that it occurred across the country almost at the same time and after the announcement of presidential results. Kenyans were seeing live events on the media which sparked violence across the country. This is elaborated by Gardener (2002) that media have the power to destroy and build relationships. What was happening elsewhere was broadcasted and it made people react and counter-react to live events across the country leading to strained ethnic relations that contributed to the loss of lives and destruction of property. In contrast with Kurgat (2000), the media need to go beyond being fact deliverers to news analysts by providing enough candid information to create empathy for all sides involved in violence.

However, since the researcher was using a concurrent triangulation strategy, qualitative responses indicated the following reasons for the similarities and differences between the 2007 post-election violence and the previous election violence was that the results indicated by most of the FGDs in Burnt Forest indicated that the 2007 post-election violence was unfair and biased from the government side unlike the previous General Elections and violence. That the government supported one side of the political divide, the PNU and its affiliated parties and sidelined the ODM party supporters. PNU was provided with provincial administration police and other security enforcers in the state to protect them from the protestors while the other groups were not given any protection from the retaliatory attacks. This is attributed to government machinery which is in control of the electoral management body. This is consistent with the study done by Chelang'a, *et al.*, (2009) that retaliatory raids, victims became killers. This led to undisputed results leading to election violence.

An agent who was interviewed in Burnt Forest in Uasin Gishu said that the government hand was supporting the supporters of the government but we were the majority on the ground who supported the opposition side. It indicated that the government in power at that time supported the participants who were supporting the system in power. The previous elections violence had no major displacements and loss of lives while the 2007 post-election violence had a lot of losses; loss of lives, displacement, properties being deserted and destruction of properties which concurs with Robert's (2014) views. The carnage was horrific, it left 1500 people dead, 3000 innocent women raped and 300,000 families were internally displaced. They also mentioned that the 2007 General Election violence was countrywide while the 1992 one was sparsely distributed.

The 2007 post-election violence was majorly triggered by politicians while the 1992 General Elections violence was majorly generated by land issues between ethnic communities which is consistent with what was found by Kagwanja (2001) in his study. Kagwanja (2001) found that the Kalenjin and the Maasai ethnic groups were allowed to occupy land abandoned by displaced groups to ensure the political alliance of these groups and to prevent them from joining opposition parties. This is contrary to what was collected in the field because land issues were not featuring prominently in 2007 post-election violence and even the victims returned to their farms after mechanisms were put in place and some of those who sold land did at their own will.

Other FGD interviewees in Kachibora, Trans Nzoia County emphasised that the 2007 post-election violence was spontaneous while in the previous General Elections 'violence was planned'. This was because most of the previous elections occurred before voting. One young male interviewee from an FGD in Trans Nzoia County said,

All the other General Elections which occurred during Moi's era after the advent of multi-party politics were systematically organised and took place before voting but this came after and was the worst of all post-election violence ever experienced." (FGD, Seum, 24 August 2015).

The participant meant that the violence during previous General Elections took a systematic pattern, and took place before the elections but the 2007 post-election violence had immense consequences.

Other FGDs in Burnt Forest, Uasin Gishu County said that post-election violence took about two months, attracted the international community and targeted mostly one community. This was because the incumbent president was coming from the Kikuyu community therefore voters felt that they were denied something which belonged to them. This relates to what Oyugi (1997) had said that the notion of ‘a people’s area ‘which resulted from the formal politico-administrative enclaves was later to lead to the heightening of ethnic self-identity or sense of belonging. This reflected how exclusiveness occurred during post-election violence in 2008.

The open-ended part of the questionnaire was able to give in-depth responses as compared to the closed-ended questions in the questionnaire. This was because the respondents were able to express their responses extensively. From the information given by the respondents and key informants, the pattern of electoral management attributed to disputed elections heightening tensions among interethnic groups leading to election violence in the 2007 General Elections

### **4.3 Structural Context of Electoral Management Practices on Interethnic Relations in 2007 General Election Violence**

#### **4.3.1 Introduction**

This chapter presents the findings recorded for objective two which sought to analyse the structural context of electoral management contributing to interethnic relations leading to 2007 post-election violence in Uasin Gishu and Trans-Nzoia. The researcher thus interprets the findings from the collected data which was based on questionnaires and interviews there after a discussion comparing findings with previous studies.

### 4.3.2 Composition of ECK during the 2007 general elections

The study findings on the composition of ECK depicted 200 (62%) of those victims who participated said that they agreed with the composition of ECK officials. However, 125 (38%) did not agree with the composition of officials. The highest number of respondents who supported the composition of ECK was because most of the officials came from their communities and those who disagreed with the composition in place were from the minority groups. The findings are shown in Table 4.11

**Table 4.11: Agreement with Composition of the ECK in Burnt Forest, Uasin Gishu**

#### County

Response	Numbers	Percent
Yes	200	(62%)
No	125	(38%)

The respondents from the findings indicated the following reasons for their agreement towards the composition of the ECK during the 2007 General Elections.

#### 4.3.2.1 Competence

The majority of the victims who participated in filling out the questionnaires said that the officials were very competent in doing their work with perfection, especially during the registration of voters, and managing the process of voting during Election Day. This is contrary to the views of Lyons (2004) who noted that the choice of any electoral administration may influence electoral violence since the issues relating to impartiality and independence, efficiency, professionalism and transparency are important in the context of suspicion and mistrust that characterise post-election violence. The views of the respondents who agreed that the composition was based on competence were majority while those who filled the open-ended questions were also many. This

could mean that the majority had full confidence in them because they knew them and the kind of work they did in the electoral system.

In Trans Nzoia County, key informants were interviewed on the same issue of the composition of the ECK officials and a member of an NGO said,

In some polling stations, the selection of officials especially the registration clerks was influenced by the decision of the local chiefs. That influence was a result of the community of that officer. That led to mistrust among members of other communities.” (Oral interview, Kitale town, 7 April 2021).

Mostly, local chiefs are appointed based on the person who is familiar with the area of jurisdiction has an added advantage. This shows that most of the area chiefs are from the larger communities.

Another young woman in an FGD in Trans Nzoia County said,

Many polling clerks were appointed because they paid bribes to those who were carrying out the recruitment process. That recruitment was majorly influenced by the returning officers and presiding officers. At the same time, the ethnic groups of those returning officers influenced recruitment in Kachibora study areas”. (FGD, Kachibora, 22 August 2015).

This meant that recruitment of ECK officials was not selected purely on merit but other factors influenced the process leading to inter-ethnic mistrust among communities. Such scenarios contribute to election violence or act as a recipe for violence.

#### **4.3.2.2 Reliable and effective**

Some victims who participated in Burnt Forest said that officials were effective in discharging their responsibilities. Most of them were in a position to complete their work according to the stipulated time. What they delivered were reliable results from polling stations as expected. This concurs with the views of Lyons (2004), that efficiency, professionalism; transparency, impartiality, and independence are important preconditions to come up with legitimate election outcomes.

#### **4.3.2.3 Familiarity with areas of jurisdiction**

The reasons given about familiarity with those areas were because most officials were residents of those areas enabling them to understand the areas without difficulties. The victims in Burnt Forest said that they were familiar with the officials since they were from the surrounding. Likewise, political aspirants who were interviewed in Kachibor, Trans Nzoia County said that they agreed with officials on the familiarity of the areas of study. This was because most of those officials hailed from those study areas. Those participants who agreed that the composition was the right selection based on familiarity areas of the study had similar views with the response from qualitative views. This is consistent with rules in Election Act, 2011 that any registration clerk must be a resident in the constituency, ward and registration area in which they apply.

#### **4.3.2.4 Professionals**

An interview was conducted with a political aspirant in Trans Nzoia County on the professionalism of ECK officials and this is what he said,

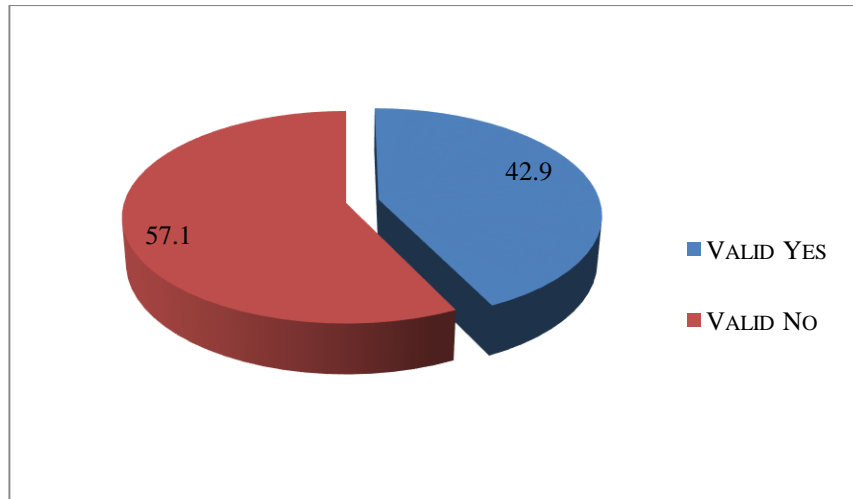
Most of the ECK officials are not professionals because they do not have proper skills in areas of elections. ECK officials such as polling clerks, registration clerks and presiding officers are employed on temporary terms". (Oral interview, Naikam, 14 March 2021).

This means that the ECK officials are not well equipped to handle well the running of elections. This is consistent with Jarstad's, (2008) view that the prevalence of political bias, the absence of accountability and the lack of impartiality, independence and competence on the part of electoral administration institutions in particular play an important role in creating suspicion and mistrust during elections. This is a breeding space for post-election violence.

The analysis of this study indicated that the data collected were controversial in the sense that the key informants were giving information based on the affiliation of the party they supported. The

respondents were giving information basing the effectiveness of officials. Therefore, it means that the compositions of officials were not constituted rightly to meet their mandates accordingly.

#### 4.3.3 Number of Polling Clerks in a Polling Station



**Figure 4.5: Sufficiency of number of polling clerks in a polling station.**

The study was conducted to find out if the clerks in polling stations were enough to conduct smooth elections and it was found that 42.9% of the responders agreed that the clerks in polling stations were enough to conduct smooth elections while 51.9% of the responders disagree on the same issue as elaborated in figure 4.8 above.

An analysis was conducted to find out how the respondents supported their answer on whether they think polling clerks in each polling station were enough to conduct smooth elections in 2007, it was found that the respondent believed that long queues in the polling station reveal that polling clerks were not enough to conduct smooth elections while there are those respondents who believed the clerks were enough said that voting ended at the required time. This could be a result of denying electorates the opportunity to exercise their right of voting.

A respondent from Burnt Forest in Uasin Gishu County in her response to the questionnaire said that being one of the polling clerks in a very busy polling station, it was very difficult for them

because the queues were very long and they had other activities to perform in the course of attending voters to vote. According to Election Act (2011) election rules, polling clerks are supposed to check in and process voters, as assigned by the electoral commission of Kenya besides other duties such as organizing the polling place before the polls open, ensuring that qualified voters are permitted to vote, distributing ballots to registered voters, providing instructions and assistance to voters, answering voters' questions, explaining the use of the voting equipment, maintaining order in the polling place on Election Day, and obtaining results after the polls are closed and closing the polling place. The methods used in collecting data were giving similar information on the adequacy of polling stations. It did not meet the required standard of conducting smooth elections therefore it contributed to the failure of the electoral management body leading to 2007 post-election violence.

#### **4.3.4 Stakeholders involved in Electoral Management Practices on Interethnic Relations in the 2007 Election Violence**

**Table 4.12: Stakeholders of Electoral Management on Post-election Violence**

<b>Stakeholders' involvement in voting process</b>	<b>Percent</b>
Observers	21.7%
Party agents	30.4%
Political candidates	21.7%
Electorates	21.7%
Electoral Commission of Kenya	4.3%
<b>Total</b>	<b>100.0%</b>

An analysis was conducted to find out which stakeholders were involved in the voting process and it was found that 21.7% of the respondents agreed that it was observers and electorates



respectively. This is in agreement with the views of Fischer, (2002) that monitoring is done to present findings to electoral commissions, government agencies, security forces, media, and other stakeholders to assist craft responses that would prevent or mitigate further violence. Those who said that they were party agents were 30.4% while 21.7% said they were political candidates and finally 4.3% of the respondents said they were the electoral commission of Kenya as shown in Table 4.12.

Party agents were found to have been part of the eligible shareholders because of the role they played in representing their parties and candidates.

#### **4.3.5 Electoral Commission of Kenya's Contribution to Malpractices during the 2007**

##### **General Elections**

This section was approached qualitatively. It contained responses from those who were interviewed in this study to find out whether there were malpractices employed by actors in the election process of the 2007 General Elections. The study's results were presented as follows:

From the findings, the majority of the victims who filled the structured part of the questionnaires distributed in Burnt Forest and Kachibora said that the ECK officials contributed to malpractices such as bribery and voter buying. This is evidenced by those who filled out the questionnaires and they responded that ECK officials ignored voter bribery and vote buying by some politicians' supporters, and officials could not take any action. The respondents meant that some individuals were given cash to sway their decisions on voting but still, they could not take action against them. This concurs with the views of Allen (2010) that the strategy can be used to manipulate voters either to distort their preferences or sway preference expression. This was a clear indication of openly allowing malpractices in the system.

In a Focus Group Discussion, one of the elderly woman participants said that bribery was common outside the polling areas. From the response from an interview and a Focus Group Discussion view above, it meant that some bribery was going on but no ECK official took a keen interest to stop the vice. It indicated that officials did not play their part as expected by the rules and regulations of the electoral system. On the other hand, officials from ECK gave contrary information concerning bribery among voters. One presiding officer in Trans Nzoia County said,

I got information concerning people who were exchanging money in an adjacent area and immediately I contacted police security to check on what was going on". (Oral interview, Kachibora,4 Nov.2015).

This meant that the ECK official did what was required from him but the police security took it lightly which impacted electoral malpractices leading to inter-ethnic relations resulting in election violence.

An election agent in Trans Nzoia County claimed that some money was exchanging hands outside the polling station. This is evidenced by an interview conducted and he had this to say,

I overheard voters conversation talking of people outside the polling station giving money. This immediately eroded my trust in the system". (Oral interview, Motosiet centre,17 March 2021).

This reflected a lack of trust in the fairness and transparency of the election process.

#### **4.3.5.1 Intimidation and harassment**

The victims who filled out the structured part of the questionnaires in Burnt Forest said that intimidation and harassment were almost the order of the day. This is inconsistent with the views of Collier (2009) that intimidation can be prioritised by some regimes as a more reliable strategy for securing political support. Those that filled out the same part of the questionnaires distributed to them attributed to harassment and intimidation which was common in most of the polling stations. Many of the voters claimed that they faced harassment from the security officers and some agents who were either supporting the ruling party or the opposition. Some were harassed

in the queues and others while casting their votes. The main goal was to alter the preferences of voters at the polling station through vote buying or intimidation to increase the vote of a specific political force.

One election observer in Burnt Forest said that though there was smooth conduct of voting, some harassment from ECK presiding officers and security personnel were common. Many voters were raising their concerns but nobody was serious to check the malpractices. In Trans Nzoia, an observer from a religious faith claimed that he did not encounter any intimidation or harassment from ECK officials and security officers. This was contrary to what was collected from other actors in Burnt Forest and Kachibora. This is contrary to what other scholars have portrayed in the previous election violence in Kenya.

#### **4.3.5.2 Favoritism and marginalisation**

A Focus Group Discussion was conducted in Kachibora, Trans Nzoia County and a few members said that favoritism and marginalisation were common. The views of Ottaway (2003) are contrary because he emphasised that the percentage of the public which sympathises with opposition parties can be systematically marginalised from the voter registration process while Birch and Allen (2010) is of the view that at times, distorted rules can be used to prevent candidates from contesting elections or large sectors of the adult population are excluded from voting.

One of the informants in an FGD in Uasin Gishu said,

“My name was missing but the officials declined to refer to the black book for further confirmation”. (FGD, Burnt Forest shopping centre, 16 August 2015).

This meant that the officials favoured some voters during voting exercises depending on the parties they were supporting. Another respondent claimed that he could not see anything to do with favouritism because officials were doing their work according to the stipulated rules and regulations. The response was not converging because the participants could have been supporting

different political leaders in government and opposition therefore gave their views on what was going on at the grass root level.

#### **4.3.5.3 Delaying tactics**

Delaying tactics were prevalent in most of the rural areas as lamented by some victims in Burnt Forest. They said that complaints were raised by voters to officials who were believed to have a right to sort out their grievances but what came out from most of the voters was that the officials were not considering their complaints. What was to be sorted immediately took many hours.

This is evidenced by a Focus Group Discussion in Burnt Forest where one of the elderly male participants admitted that there was malice from some officials who used delaying tactics over the issue of missing rubber stamps. That according to him could have been something which was a matter of minutes to get them from the main office. He reported that it took them five hours to report the matter which could have been a delaying tactic from the officials to deny voters to exercise their voting right. This is contrary to the views of Olawole *et al.* (2013) who assert that the “right to vote is rather a public function conferred upon the citizen for the reason of social expediency”.

Every Kenyan citizen who is 18 years and above has a right to vote but when this exercise is denied in one way or another, then this right is violated. This is contrary to the data collected from a presiding officer who said,

Being one of the presiding officers, any complaint from voters was forwarded to the returning officer but at times all complaints were not sorted out on time because of challenges faced”. (Oral interview, Tarakwa Primary School, 20 March 2021).

This meant that as much as they tried to sort out all issues, sometimes because of ECK institutional challenges, all complaints could not be solved on time as expected.

#### 4.3.5.4 Misleading voters

Misleading voters was widespread in some areas. Some presiding officers according to some victims from Burnt Forest were not impartial. They misled the illiterate voters. One of the victims in Burnt Forest in the 2007 General Elections admitted that she was misled by one assistant presiding officer to tick at the wrong place only to realise later that it was wrong. This is a replication of what took place in the 1997 General Elections in Kenya. According to IED (1998), at Kanunga polling station in Kiambu, the presiding officer instructed voters in the queue to put a mark next to the picture of the candidate of their choice rather than the symbol of the party". Such behaviour creates mistrust and suspicion among members of the public leading to inter-ethnic animosity.

An interview with a political aspirant in Kachibora, Trans Nzoia County said, "*His supporters were not properly guided by the ECK officials and agents*". (Oral interview, Sowerwo centre, 14 March 2021). It contributed to a lot of confusion since they moved from one station to the other without getting proper polling stations. Some supporters left the queues because of misguidance from officials. This is inconsistent with the rules of the Election Act that electoral officials must be honest, transparent and of high integrity to enable the smooth running of the election process. This in one way or another triggered the 2007 post-election violence.

From the analysis gathered from the respondents and key informants, the study showed that all the participants' views were similar because the officials contributed to malpractices in one way or another leading to electoral violence. It contributed to communities clashing as a result of the practices employed in conducting elections in the 2007 General Elections.

### 4.3.6 Contextual Factors Contributing to Interethnic Relations in 2007 General Election

#### Violence

The study outlined some of the possible factors that would have led to the implications of electoral management on interethnic relations in the two counties. This triggered the post-election violence of 2008. Data were collected from the two study areas and analysed simultaneously. The findings are shown in Table 4.13.

**Table 4.13: Contextual factors contributing to 2007 General Election Violence**

Causes of Electoral Violence	Not Sure		Less likely		Moderately		Most likely		Total
	Freq	%	Freq	%	Freq	%	Freq	%	
Land disputes	44	13.5	81	24.9	97	29.8	103	31.7	325 (100%)
Ethnic cleansing	70	21.5	60	18.5	40	12.3	155	47.7	325 (100%)
Disputed presidential results	14	4.3	20	6.2	31	9.5	260	80.0	325 (100%)
Media incitement	69	21.2	110	33.8	78	24.0	68	20.9	325 (100%)
Poverty	65	20.0	127	39.1	80	24.6	53	16.3	325 (100%)
Ineffective electoral commission of Kenya	46	14.2	27	8.3	37	11.4	215	66.2	325 (100%)
Rampant unemployment among youth	58	17.8	85	26.2	100	30.8	82	25.2	325 (100%)
Political incitement	36	11.1	16	4.9	34	10.5	239	73.5	325 (100%)

The findings indicated that disputed presidential results were the most likely cause of electoral management practices to 2007 post-election violence with the highest percentage at 260 (80.0%), followed by political incitement which was 239 (73.5%), ineffective ECK at 215 (66.2%), ethnic cleansing had 155 (47.7%), land disputes with 103 (31.7%), unemployment with 82 (25.5%), media incitement with 68 (20.9%) and the least being poverty with 53 (16.3%) citing most likely cause. From the results, 81(24.9%) indicated that land disputes were not the likely cause of General Election violence while ethnic cleansing was 60(18.5%). Those who believed it was because of disputed presidential results were 20 (6.2%), media were 110 (33.8%) and political incitement was 34 (10.5%). Another group of respondents was not sure if general election violence was caused by the following causes: land disputes 81 (24.9%), ethnic cleansing 60 (18.5%), disputed presidential results 20 (6.2%), media 110 (33.8%), and political incitement were 34 (10.5%) only.

#### **4.3.6.1 Disputed presidential results**

These findings indicated that the most likely cause of post-election violence of 2007 was due to the disputed presidential results which sparked off violence country-wide. Most ECK presiding officers who were interviewed gave their opinions about disputed presidential results and this was what a returning officer in Uasin Gishu said,

During voting, everybody was very calm despite a few elements who were managed by the management but chaos erupted after the announcement of presidential results". (Oral interview, Kenmosa, Eldoret, 2 Nov.2015).

This relates to Fortmann's (1999) argument that election violence erupts particularly in situations where elections offer a genuine possibility of changing power relations. It is supported in situations where politicians with 'close races', have strong incentives to cause violence which the election polls showed before Election Day.

Further, Reif (2005) reiterated that in situations where a small number of votes can make a big difference in the outcome of an election, violence is likely to recur. This addresses the gap based on the results displayed during the opinion polls by Oucho (2015). The polls reflected the presidential candidates' results competing very closely with the two parties of PNU and ODM. The close competition was also noticed during the announcement of the presidential results from the beginning towards the end until President Kibaki was declared to have won the 2007 General Elections which were against the expectations of ODM party followers. This indicates that in newly democratic societies, close competitions create healthy grounds for election violence. This is contrary to Thomson's (2010) view about Ghana's General Election of 2000 and 2004 where there was a relatively democratic and peaceful transfer of power, despite very narrow margins of victory. This is what one young female participant in an FGD in Uasin Gishu County said:

It is amazing that [the] ODM party lost elections which we had known since the beginning of the journey that it was ours! What a surprise, what a shock, and what a shame to the ODM leaders and their supporters. The opinion polls all through indicated that the ODM party was always ahead''. (Oral interview, Burnt Forest shopping centre, 16 August 2015).

From the participants' responses, it was revealed that the support they had across the country was evident that they were winning the General Election despite the very stiff competition. After the announcement of the presidential results, they could not believe that they had lost the elections thus contributing to immediate reaction leading to post-election violence of 2007. The fact that opinion polls portrayed good results to them was an indication of a clean win. They had predetermined results that they were winning General Elections thus losing was not what they had expected.

This is consistent with Mbae's (2017) view that opinion polls may have polarized the 2007 post-election violence. This contradicts the principle of democracy that there must be winners and losers in any competition. There was a commonality between the responses from the participants indicating that disputed presidential results sparked the 2007 post-election violence. Few



respondents 6.5% believed that disputed presidential results were not the cause of post-election violence.

The majority of the participants believed that disputed presidential results contributed to post-election violence. They believed that voting went on smoothly despite some difficulties experienced by the electoral management. The councilors and Member of Parliament results were declared without hitches but tension started building up when results revealed that the incumbent and opposition leaders were neck to neck on the presidential results. This is evidenced by one of the election agents in Uasin Gishu County who said,

Many of us from government and opposition were listening to the news when we heard that there was a very close margin between President Mwai Kibaki and Honorable Raila Odinga. Everyone started asking questions and the events shown on the television created a lot of tension between groups of different divides”. (Oral interview, Burnt Forest, 7 March 2021).

From the responses, it comes out the methods used, quantitative and qualitative results, that there was a convergence of results from both methods. This may be because when presidential results were announced, protests were experienced almost everywhere. From the researcher's view, voting went on well but the announcement of presidential results caused problems. That indicated that the electoral management contributed greatly because they are the ones in charge of the management of election results.

#### **4.3.6.2 Political Incitement**

According to the victims from Burnt Forest, political incitement was very high. They said that politicians contributed to interethnic relations which resulted in the post-election violence of 2008. During the campaigning period, politicians were dominating the platforms selling their manifestoes to the voters. In the process, some incited the voters knowingly or unknowingly against other groups in a way to suppress the electorates of other parties. This is evidenced in the Waki Report when he highlighted the issue of land as an emotive issue in Kenyan politics. The

emphasis was that politicians capitalised on issues surrounding it, including encouraging election violence.

In an FGD in Trans Nzoia County, an elderly man said,

Politicians were using inciting words starting from the councilors at the grassroots level to those who were vying for parliamentary seats". (FGD, Makutano, 23 August 2015).

The informant implied that political incitement was very common during the campaigning period at the local level. This is contrary to the views of Olawole *et al.* (2013) who assert that the "right to vote is rather a public function conferred upon the citizen for the reason of social expediency". This means that voters were denied their rights using incitement to vote in those who were not their choices.

A minority of the respondents 4.9% believed that political incitement was not the likely contributor to 2007 post-election violence. This meant that political incitement was common.

The majority of the victim respondents from the two study areas who managed to give their feedback through structured questionnaires said that political incitement from some politicians was a very common feature. This may have been due to local leaders trying to influence their voters to vote for their leaders from ethnic communities and affiliated parties. This is consistent with Kimenyi's (1997) view that the electoral outcome is assumed that voting would proceed along ethnic lines. The outcome of voting during the General Election preceded ethnic lines and party affiliations which were formed based on tribal lines. The responses from questionnaires and interviews were consistent. This may be because most of the grass root and members of parliament were using incitement language which could make voters go against one another.

#### **4.3.6.3 An ineffective electoral commission**

An ineffective electoral commission was also cited by the majority with 66.2% in Kachibora and Trans Nzoia Counties. This was because the Electoral Commission of Kenya was supposed to play its role fairly and transparently but it failed to do so as evidenced in the release of presidential results when the then-chairman of ECK said “*I don’t know whether Kibaki won the elections*” (Roberts, 2009). This evidence indicated that ECK was not in a position to give clear information on what was happening on the ground. Inconsistency in giving the right information amounts to inefficiency.

Issues of delays in the voting process, some names missing in the registers, misleading voters to put ballot papers in the wrong boxes, incompetence and sheer ineptitude of some presiding officers and their deputies becoming unfamiliar with basic things such as opening and sealing processes, lighting pressure lumps made the officials ineffective. This is consistent with the views that choices made over the nature of electoral management bodies are instrumental in facilitating the conditions for election-related violence (Reilly, 2002). One of the village elders in Uasin Gishu County said, “Radio gave me a lot of information on the importance of voting by electoral officials”. (Oral interview, Burnt Forest, 14 Nov.2015 2.00 to 4.00 pm). This meant that the theoretical information was satisfying but what was happening on the ground was not up-to-date. In another interview, an interviewee said, “Electoral Commission did their job well especially in Burnt Forest”.

This contradicts the majority of the respondents who believed that they were ineffective in conducting their duties during the voting day and the announcement of results. This could be because an interviewee was among the officials who wanted to save their faces from shame or fear that whatever he said could be used against him despite the assurance that anything said could not be used against anybody.

Further, he reiterated that evidence indicates that high levels of mistrust and divisions among political party representatives have become commonplace in countries that adopted partial partisan electoral management entities. In Africa, where there is no trust in electoral management bodies, even when elections are held in a fair, free and transparent, questions will always be raised about the impartiality of the system. To overcome such problems, the significance of adopting independent and professional administrative bodies is stressed by many (Reilly, 2002). The inefficiency of the electoral commission creates unnecessary delays which may spark post-election violence.

The victim respondents in the two areas of study were asked about their opinion as to whether the 2007 post-election violence was caused by the ECK. The majority of the respondents said that they agreed. The feedback from the Focused Group Discussion and other key informants such as the agents, observers and political aspirants had contrary opinions on how ECK conducted its operations or managed the 2007 General Election had a close link with the post-election violence of 2008. In particular, part or some structural context of electoral management practices caused the 2007 post-election violence. This is consistent with studies by Carlos (2007) that, whereas there are significant variations between different election management within the same country, some turn violent, indicating the causation of election violence by EMBs.

#### **4.3.6.4 Media**

Of those victims who said that media incited the post-election violence 20.9%. Media is a channel of information to the citizens. As compared with what has been discussed above, the media carries a smaller percentage showing that it was not largely responsible as compared to disputed presidential results, political incitement and ineffective electoral commission. Media, even though did not feature as one of the strong contributors to 2007 post-election violence, it did not play its role as expected. This is contrary to what Amutabi (2009) said that in a democratic state, the

media ought to be reliable, trustworthy and share diverse unbiased information”. Kurgat (2009) elaborates on the same idea that media need to go beyond being fact deliverers to news analysts by providing enough candid information to create empathy for all sides involved in violence. Kenya is one of the developing democracies in Africa, media failed to execute this principle effectively.

During an interview, a County Commissioner in Trans Nzoia County remarked that the media played a moderate role in disseminating information about different political divides. The interviewee believed that the media disseminated information fairly. This is consistent with the views of Galtung (1991), that media are independent third-estate actors which transmit information worldwide without fear or favour. Media should not discriminate based on tribe, colour, religion and differences in political ideologies.

Another young man from FGD in Burnt Forest said that the media incited the voters using different languages. The interviewee said that media, using different languages, especially radio broadcasting corporations, incited people to use vernacular languages without the knowledge of others. This is consistent with Gergen's (1990) that media have been an internationalizing agent of internal conflict and violence which is contrary to Galtung's views that media are independent third-estate actors which transmit information worldwide without fear or favour.

From the findings, 33.8% of the victims in Kachibora and Trans Nzoia respondents were not sure if the media contributed to the 2007 post-election violence. One of the respondents said that he did not see or hear anything which could make me go to the streets. It means that the respondent could not be convinced by the media to go to the streets despite what was going on.

Another respondent said that among the causes of election violence was the biasness of the media. The respondent blamed the biasness of media in disseminating information which is contrary to

the views of Amutabi (2009) that in a democratic society, media ought to be reliable, trustworthy and share diverse unbiased information.

#### **4.3.6.5 Ethnic cleansing**

Ethnic cleansing was not a major issue in the 2007 General Election Violence. The study indicated that 18.5% of the victims from the two studies said that it had nothing to do with the post-election violence of 2007. Few of the respondents believed that ethnic cleansing was one of the causes of election violence in these areas. This was because people believed that other tribes should be moved away from their land as revealed by one of the agents in Burnt Forest who said that the advocates of ethnic cleansing want other communities to be eliminated from those areas. This meant that those people who migrated from other areas were to be removed completely. This is contrary to what is in the 2010 Kenyan constitution that every Kenyan is free to live anywhere in this country.

Another elderly man participant in an FGD in Uasin Gishu County lamented:

We have accommodated these people wholeheartedly but they take us to be fools. They bought land and properties on our land and we accepted them but to ask frankly, can these people accommodate anybody in their ancestral homes? They have imposed their discrimination on us in all fields from economic and socio-political aspects". (FGD, Burnt Forest, 3, 2015.

The participant's words may mean that the local community willingly accommodated other communities on their land without discrimination. They accepted them after the independence of this country but it is unfortunate because they take them for granted. Further, he added: "Why do they want to demonize and control us? Do they give space to any other tribe in their land?" (FGD, Burnt Forest, 3, 2015). This meant that the respondent was so bitter because their opponents were seen to be people who do not consider others in any setup. This is an indication of people who are not accommodative.

From the questionnaire, 47.7% of those who filled out the questionnaires which were integrated from the two study areas said that it was the cause of post-election violence while 21.5% were not sure. The interviews showed the extent how ethnic cleansing may be a factor. Other factors emerged from other key informants in the study areas. This includes:

#### **4.3.6.6 Ethnic identity**

Further, Collier (2009) posits that politicians use ethnic identity as a viable means of mobilising political support in times of elections. This is relevant to what was found in the field where politicians were mobilising support from their tribesmen using their kingpins. One of the village elder interviewees in Trans Nzoia County said:

We have lived together for many years with challenges here and there but the General Election violence of 2007 was a nightmare. This election violence specifically in our area erupted because of disputed presidential results but other factors have been building up such as tension arising from demands that voters to vote for so and so and utterances from politicians during campaigns that some tribe must go". (Makutano, 5 April 2021).

From the participant's words, communities have lived together for years with the usual challenges but the 2007 General Elections violence was disastrous. The General Elections violence took place because of disputed presidential results of the 2007 General Elections and some underlying factors such as built-up tensions, jealousy, and envy from their opponents. In addition, people were forced to vote uniformly for the regional party, an idea that was not complied with by all the voters. Kimenyi (2005) notes that the motivation behind electoral violence is to influence voting in favour of the incumbent which is contrary to voting based on regional affiliations. This meant that people have been living happily but the results of the election sparked off the hidden feelings towards one another. It is an indication that despite living together peacefully, the built-up hatred was persistent.

#### **4.3.6.7 Unfair Distribution of Resources**

Another village elder in Kachibora said, “Tension since 1992, 1994, and 1997 gave birth to 2007 post-election violence.” This meant that the previous General Election violence have been the foundation of the 2007 post-election violence. This is inconsistent with the views of Nabushawo (2008) that land issue has remained a sensitive issue in the rift valley for a long time. Unfair distribution of resources entails a variety of resources which include land, water, goods and services and other resources which any government should distribute fairly to its citizens. According to the participant, the advent of multi-party politics has been a testing ground for competing groups during elections.

Another political aspirant in Uasin Gishu County said:

The tension between the communities is because some group is favoured by the authority, especially in the distribution of resource allocation. The cutting of trees in Kaptinga Forest is dominated by one group who has access to permits from Nairobi which other tribes cannot access easily”. (Oral interview, Burnt Forest shopping centre, 6 March 2021).

The distribution of allocation of resources was done unfairly according to the findings. Some communities were having access to resources while the majority were denied that access because they lacked connections and networking and this strengthened hatred among communities. This meant that those benefiting could be having direct connections with the higher authorities leading to tension building up among communities. This reflects the views of Fortman (2000) that political power is considered a major social good because those who hold it have significant control over a variety of other social goods. The same view has been advanced by Njuguna, Musambay & Williams (2004) that public office is seen by many as a means for the political elite to access state resources, privileges and opportunities for predatory behavior.

Another young woman participant in Burnt Forest in an FGD said,



All this time during the campaigning period, my husband has been spending nights in the cold guarding our animals”. (FGD, Burnt Forest, 16 August 2015) .

The participant said that throughout the campaigning period, it brought phobia to some families over their properties. Animals were stolen especially during the election violence of 2007. This was due to the heightening tensions which were developing between different supporters of the two political divides leading to electoral violence. Kaimenyi (2005) believes that the motivation behind electoral violence is to influence voting in favour of the incumbent. During the general election in 2007, two competing forces were struggling to occupy the power position in Kenya.

#### **4.3.6.8 Jealous and envy**

Some of the informants in an interview believed that envy and jealousy among residents of Burnt Forest and Kachibora were also the cause of post-election violence. The claim was that ever since the two communities lived together, there has been some kind of competition and rivalry over some issues such as animal keeping and developments within their homes. One of the elderly man participants in an FGD in Burnt Forest said,

The government has been favouring one group, especially by giving them permits to cut trees in the forest while, they have been denied access to the same which has made others prosper while they languish in poverty”. (FGD, Burnt Forest, 3 August 2015).

This revealed that favouritism is common within ethnic affiliations. This concurs with Kimenyi (1997) who established in his study that ethnic identification is very strong in Kenya. Negative ethnicity in any society is a recipe for electoral violence.

Another elderly man participant from an FGD in Burnt Forest said, *“One group is very aggressive and hardworking while others wait to reap from others”*. (FGD, Burnt Forest, 3 August 2015). The respondent claims that some people are industrious while others do little expecting to reap from those who are hard-working. This is a clear indication that there is no trust among those particular groups requiring intervention from the relevant authorities. This is inconsistent with

Glickman (1995) and Sithole (1998) that ethnicity *per se* could be accommodated in a democratic society. In a democratic society, ethnicity does not hamper relationships between different people but instead, creates a favourable environment for development.

The contribution of electoral management practices on interethnic relations as a result of ethnic animosity in the study areas brought tension among communities. The malpractices create room for hatred leading to election violence which Kenya has been experiencing since the inception of multi-party elections in 1992.

#### **4.4 Challenges Emanating from Electoral Management on Interethnic Relations in 2007**

##### **General Election Violence**

The researcher used both qualitative and quantitative methods to collect data from the victims of the post-election of 2008 and ECK clerks in Uasin Gishu and Trans Nzoia Counties. Quantitative data collected from the two sites were integrated because the results were concurring without much difference. From qualitative respondents, the researcher interviewed ECK officials from the two study areas to get in-depth information on the challenges faced in the course of conducting elections. Later triangulation of data was applied to get the convergence of the data collected.

**Table 4.14: Challenges emanating from electoral management practices**

Challenges	Responses	
	N	Percent
Lack of finance by electoral management during elections	73	8.8%
Suspicion among residents, Tribalism	109	13.1%
Delay in results	36	4.3%
Lack of trust from voters towards police enforcers on transport of ballot materials	36	4.3%
Death of non-locals, loss of property and displacements	72	8.7%
Inadequate polling stations	72	8.7%
Failure of EMB officials to manage results	108	13.0%
Late opening of polling stations	36	4.3%
Late announcement of results	108	13.0%
Stealing of elections	36	4.3%
Poor coordination	36	4.3%
Harassment, lack of trust by poll officials	73	8.8%
Lack of adequate civic education	36	4.3%
<b>Total</b>	<b>831</b>	<b>100.0%</b>

#### **4.4.1 Challenges that emanated from electoral management practices in Uasin Gishu and Trans Nzoia Counties in 2007**

According to the victims who filled out the questionnaires, they said that some of the challenges were more pronounced than others. The challenges that stood out included suspicion among residents, tribalism 109 (13.1%), failure of EMB officials to manage results 108 (13.0%), inadequate polling stations (36 (4.3%)), lack of trust in police enforcers 36 (4.3%), death of non-locals, loss of property and displacements 72 (8.7%), late opening of polling stations 36(4.3%),

poor coordination 36(4.3%), harassment, lack of trust by polling officials 73(8.8%) and late announcement of results (13.0%).

#### **4.4.1.1 Lack of finance**

Lack of finance to run electoral management practices was cited by 8.8% of the victims. On the other hand, out of those interviewed in an FGD in Trans Nzoia County said that the majority of ECK officials emphasised on lack of finance to run smooth running of activities of ECK. In Uasin Gishu County, one interviewee from FGD said that finance to run the ECK was not sufficient as said by those employed by ECK in the 2007 General Elections. Lack of sufficient funds to carry out the activities of the EMB was very common among those who were interviewed and those who filled out the questionnaires in the study areas.

For instance, the drivers of the hired vehicles were complaining that the money given was not enough to fuel their vehicles to polling centres. On the other hand, some clerks were complaining that money given to them could not gather for their fare and lunch. This is evidenced by one of the ECK presiding officials from Kachibora in Trans Nzoia County who reiterated that,

As an official who managed a station, I suffered greatly because I ended up using my own money to carry out some work of the Electoral Commission of Kenya such as fare from my residence to the polling station and training centres". (Oral interview, Kachibora 4 Nov.2015).

That meant that the clerk used her cash for fares whatever was given was not enough to carry out all the activities of the ECK including fares for officials. This concurs with Jinadu's (2014) views that the cost of elections and the proper management of their finances is a problem for EMBs in some countries. They suffer from chronic structural problems and budget deficits, and 'rather than relying on the civil service, large numbers of temporary staff must be recruited and equipment purchased, often through a procurement process that must be conducted under extreme time pressures hence the EMBs should be given more cash and financial resources to be able to carry

their activities and programmes without being influenced to favour certain political candidates. From the two methods used, there is a convergence of results because all participants strongly said that funds were a challenge in running the 2007 General Elections.

#### **4.4.1.2 Delay of results**

The delay of results according to the respondents from Burnt Forest was supported by 13.1%. This was seen to be a challenge emanating from electoral management on how they handled results, especially at the constituencies and national level. The delay of results at the national level affected the residents in the areas of study. This is contrary to the view that an independent electoral body is crucial for the conduct of free and fair elections. But it does not guarantee that the elections will at any cost be fairly managed (Wanyande, 2006). This is indicated by one of the election agents in Uasin Gishu County who said,

We expected results to be declared immediately but rather, the results were trickling in slowly by slowly making us think that something was going wrong”.  
(*Oral interview, Kondoo farm, 7 March 2021*).

This meant that the respondents expected to get results immediately after the close of polling stations but instead, it took days to declare the presidential results causing anxiety among the residents of the study areas. The situation on the ground was so tense that it created negative ethnicity among the communities who exercised their rights to vote leading to electoral violence in the 2007 General Elections.

#### **4.4.1.3 Lack of Trust and harassment by poll officials**

The existence of lack of trust and harassment by poll officials was 8.8 % among the victim respondents. This was because some respondents believed that the officials who were conducting the electoral process were after something especially those who were suspecting that there was a hidden agenda from the government. One political candidate from the PNU party in Burnt Forest said, “*I was so furious because most officials were turning deaf ears to their grievances*”. (Oral

interview, Kondoo farm, 7 March 2021). This led to mistrust from their supporters since the area was majorly ODM supporters discouraging other parties to have fair participation.

The views of Human Rights Watch (2011), emphasised that the Orange Democratic Movement (ODM) won considerable support, which contributed to rising negative ethnic tensions between the Kalenjins and Kikuyus in those areas. In a Focused Group Discussion in Burnt Forest, a young woman participant said, *“Those at the top are planning to rig elections which we have waited for long”*. (FGD, Burnt Forest, 16 August 2015). The participant thought that the 2007 General Elections was their turn to win but because of government, they had all the machinery to deny them the win. As a result of what was expected by some voters, it contributed to tensions in interethnic relations among communities leading to election violence. This meant that the participants were not satisfied with the conduct of the elections.

#### **4.4.1.4 Lack of voter trust in police officers to transport ballot materials to different destinations**

The findings indicated that 4.3% believed that there was a lack of the victims' respondents' trust in police officers to accompany the transportation of polling materials to destinations. This was because, in every vehicle transporting polling materials, at least two police enforcers were present. This caused some suspicion among the respondents because of a lack of trust to accept police as part of the players in elections. This is contrary to the view that EMBs demand from the police force duties beyond their normal remit where they need to work with security agencies, the armed forces and paramilitary bodies to protect and ensure the integrity of the electoral process (Adekanye and Iyanda, 2011). That portrayed lack of trust for politicians to be part of the election process which the EMBs rules are contrary to it.

The majority of those interviewed said that transportation of voting materials including ballot boxes was a problem. One ECK counting/polling clerk in Kachibora interviewee who was a respondent said that being one of the clerks, the vehicles we were given were not in good condition. This meant that the vehicles used were not serviced well or were in pathetic condition. This was an inspection of vehicles owned by the owners that were not in good condition. That meant there was a convergence of results from the different methods used in collecting data. That portrayed failure of ECK in the conduct of elections. Those who participated must have had experience with what was affecting election materials during transportation.

#### **4.4.1.5 Late opening of polling stations**

Most of the polling stations opened two to three hours late. An election agent interviewee in Burnt Forest said,

I woke up at 3 am only for the station to be opened at 9 am. I did not accompany the ballot boxes because my colleague who was also an agent for the ODM party was present". (Oral interview, Burnt Forest 7 March 2021).

Delay to open stations on time was due to the delay of personal vehicles to transport materials and personnel or breakdown of vehicles. Another reason was due to long queues from the regional distribution centres. This was confirmed by one ECK presiding officer in Trans Nzoia County who said,

The distribution centres were very congested and it delayed the whole process. In his station, the exercise which was to begin at 8.00 am began at 10.00 am". (Oral interview, Makutano, 4 Nov. 2015).

This could be taken as part of administrative inefficiency in election management as pointed out by IED, (1997). This created suspicion of ECK in conducting a smooth election process. The methods had something in common concerning the delay of election materials which was because of congestion in distribution centres and a problem with transport. This contributed to negative ethnicity which was a recipe for post-election violence of 2008 in the study areas.

#### **4.4.1.6 Shortage of polling materials**

There was also the issue of inadequate polling materials including voting papers and ink. This was common in most polling stations where streams were more than two. One presiding officer in Uasin Gishu County said,

I was a presiding officer in a polling station but at one point the voting papers were not enough. Getting more from the constituency centre was not easy and it made the voters speculate that something was not right". (Oral interview, Chuiyat 3 Nov. 2015).

This meant that the papers provided for voting were not corresponding with the number of voters in the register. This is contrary to the views of Olawole, Adewumi and Oluwole (2013) who asserted that the "Right to vote is rather a public function conferred upon citizens for reason for social expediency". This could have been due to mismanagement by the electoral body over inefficiency in the conduct of elections. This was a factor that contributed to interethnic relations creating suspicion among voters in the study area leading to violence during elections.

#### **4.4.1.7 Missing names of voters in the voter registers**

The ECK polling clerk official who was interviewed reiterated that in some cases, the names of voters were not in the register or the black books but possessed voters cards from the same polling stations which was a great challenge to them. One of the polling clerks in Burnt Forest cited a case where the name was missing for a voter and the voter needed to vote because he believed it was his right. The voter had all the requirements and the place became chaotic until police enforcers had to intervene. This concurred with Oluwole, *et al.* (2013) that the Right to vote is rather a public function conferred upon the reason of social expediency.

On the contrary, Owuor, (2013), stated that getting a new register is to premise voter registration on the higher principle of accuracy, verifiability and the principles articulated in the constitution. This could avoid the challenges of missing names in the register.



Other challenges that emerged from the data collected were: there was poor coordination between the Presiding Officers, Deputy Presiding Officers and the Constituency Returning Officers. Further, the polling staff did not have sufficient rest time on the night before polling day. They also lacked food for lunch and supper making them fatigued. Some complained of difficulty in handling the seals because the training given was not enough.

#### **4.4.1.8 Lack of cooperation from voters in the polling stations.**

Interview was conducted to find out whether there were more challenges experienced by presiding officers and one of the presiding officers in Kachibora said,

In my polling centre, most voters were not very cooperative. They caused chaos by disrupting queues which the security officers stepped in on time.” (Oral interview, Suwerwo, 4 Nov.2015).

This was a result of the official not being from the locality and that caused discomfort among the residents. It led to anxiety among the voters contributing to inter-ethnic relations which became volatile. Another official in an adjacent polling station in Trans Nzoia said that chaos almost erupted because agents under his control were in excess in the polling centre. This was a result of going against the rules in the Kenya Party Act that each party should have two party agents. In this case, PNU party agents were more because they were manning each stream unlike the ODM party and other smaller parties which gave only two party agents per polling station. This became a loophole because parties were not uniformly following the rule. In my view, there was a misinterpretation of party rules since an omission of streams was not captured and also due to the financial muscle of parties within the playing ground. Such events led to supporters from different ethnic groups colliding thus a recipe for election violence which was experienced in 2007 post-election violence.

#### 4.4.2 Challenges Experienced by ECK Officials

The researcher collected data from ECK polling and counting clerks' officials to find out the challenges they experienced in the course of conducting voting in their areas of jurisdictions in the study areas.

**Table 4.15: Challenges experienced by ECK officials challenges Frequencies**

	Percent	
Challenges experienced by ECK officials	Lack of finance	10.5%
	Limited time	21.1%
	Massive voters in populated areas	5.3%
	Voter's missing names	10.5%
	Poor coordination	10.5%
	Poor security in polling stations	10.5%
	Less ballot papers	5.3%
	No lunch	21.1%
	Sealing of votes	5.3%
Total	100.0%	

After the analysis to figure out challenges experienced by ECK officials, it was found that 10.5% of respondents believed that lack of finance was a challenge while 21.1% believed that time was limited. Only 5.3% of the respondents that a massive number of voters in a populated area was a challenge while 10.5% believed that the voter's names were missing, poor coordination and poor security in polling stations respectively also 5.3% believed that there were fewer ballot papers and sealing of votes which was also a challenge to the officers respectively and finally, 21.1% believed that lunch was a problem as illustrated in table 4.15.

From the respondents, a lack of finance emerged. This view has been given (Jinadu, 2014) that the ECK body must be well financed to enable the smooth running of the process. The cost of elections and proper management of their finances is a problem for most EMBs in some developing countries. They suffer from chronic structural problems and budget deficits and 'rather than relying on the civil service, large numbers of temporary staff must be recruited and equipment purchased, often through a procurement process that must be conducted under extreme time pressures.

In Kenya, apart from operational costs of core-related activities such as voter registration, voter education, constituency delimitation, the printing of ballot papers, purchase of ballot boxes and election security management, there are costs of electoral management and administration which Uasin Gishu and Trans Nzoia are not exceptional. This contributed to the 2007 post-electoral violence because of laxity within the EMBs and the government to allocate sufficient funds to the election process. One of the ECK polling clerk respondents in Burnt Forest said that ECK was not giving them enough money to run the exercise which is so tedious. There is no motivation for the clerks across the board. Therefore lack of finance for officials contributed to laxity hence relaxing the rules of opening and even closing polling stations on time. This is inconsistent with the duties of ECK officials in an election act, (2011) to open and close polling stations in the stipulated time.

## 4.5 Effectiveness of Mitigating Measures in the Management Interethnic Relations in Uasin Gishu and Trans Nzoia Counties.

### 4.5.1 Specific measures put in place by the government to mitigate the recurrence of post-election violence

The governments of the world in contemporary societies have over time experienced electoral management in the management of elections. Therefore, the governments and other actors have put in place mitigating measures to address the menace which to some extent has caused inter-ethnic relations among communities during the election process.

Table 4.16 presents the findings on the measures the government identified to mitigate the recurrence of interethnic relations contributing to post-election violence of 2007.

**Table 4.16: Government Measures to Mitigate Recurrence of the 2007 Post-Election Violence**

	Frequency	Percentage (%)
No response	6	1.8
Establishment of IEBC	63	19.4
Security reforms	55	16.9
Establishment of TJRC	65	20.0
Resettling of victims of the General Election violence	23	7.1
Compensating victims for property loss	44	13.5
Prosecution of perceived perpetrators of 2007 post-election violence	34	10.5
Establishment of the National Council of Elders	35	10.8
<b>Total</b>	<b>325</b>	<b>100.0</b>

The study carried out data collection from the victims who filled out questionnaires in Kachibora in Trans Nzoia and Burnt Forest in Uasin Gishu County and also interviews were conducted to triangulate the results from the two areas.

The findings indicated that 63 (19.4% of the victims said that the government established the Independent and Electoral Boundaries Commission (IEBC), 55 (16.9%) said there were security reforms, 65 (20%) said there was the establishment of Truth, Justice and Reconciliation Commission (TJRC), 44 (13.5 %) believed that there was a compensation of victims for property lost, 34 (10.5%) said there was a prosecution of perceived perpetrators of General Elections violence, resettlement of victims were 23 (7.1%), and 35 (10.8%) believed that it was the establishment of the national council of elders.

#### **4.5.2 Establishment of Truth, Justice and Reconciliation Commission**

From the interpretation, the respondents 20.0% said that the establishment of TJRC was among the measures put in place. This is because Truth, Justice and Reconciliation Commissions have worked in countries such as Rwanda, South Africa and DRC in making people reveal the truth and ask for forgiveness which heals the past wounds. This concurred with the study done by Tohbi (2010). The study advocated for the EISA model (Electoral Institute of South Africa) which emphasised the establishment of election-related conflict management panels at various layers of society during the election cycle. It is premised on early intervention mechanisms and entrenches the notion of mediation, reconciliation, arbitration and facilitation of conflict resolution.

From the analysis, what emerged from the quantitative analysis was that TJRC seemed to have performed the work on the victims and brought people to speak the truth about past suffering. However, from the analysis compiled from the interviews, the TJRC issue is portrayed to have done very little in the affected society. In Burnt Forest, an elderly man participant in FGD said,

*“TJRC has done nothing in reconciling the victims of the post-election violence of 2007 General Election”*. (FGD, Burnt Forest, 3 August 2015). Another elderly man in the same FGD said”

TJRC is not known in our area. It is something we hear in the media but its functions are not clear. We do not know its existence in Uasin Gishu”. (FGD, Burnt Forest, 3 August 2015).

The existence of those interviewed concerning TJRC emphasized that little information is not known about the TJRC bodies. This simply implied that TJRC has not done enough in the study areas. From the methods used to collect data on TJRC, there is a lot of difference emerging. The respondents who filled out the questionnaires, did it impatiently or with fear because by then the environment was full of tension and suspicion among the public as cases were going on in the ICC as compared to those who were interviewed face to face. They gave their in-depth information since the environment accorded to them was very conducive. For instance, in the focused group discussion, prior arrangements had been made and discussants were assured of confidentiality since it was meant for academic purposes only.

#### **4.5.3 Establishment of independent electoral and boundary commission**

The findings indicated that 19.4% believed that the establishment of IEBC was a measure taken by the government to extenuate electoral violence. This is because independent electoral and boundary commissions are established to run effective election processes and avoid biasness during elections. This is consistent with what was cited by the Kriegler Commission (2008), which was mandated to review the electoral process. It recommended examining the structure and composition of ECK to assess its independence, capacity and functions (operations) as well as the electoral environment.

One of the polling observers in Kachibora said that the government needed to reform the electoral commission for effective performance. The government according to the participant is to overhaul

the electoral body if good results are to be realised. In Kachibora, Trans Nzoia County, a political aspirant (councilor) said,

IEBC is a body that is familiar to voters in the study area. I do not understand fully its implementation which the electoral management has done apart from digitilising the transmission of results and the use of (BVR) kits in polling stations”.(Oral interview, Suwerwo,14 March 2021).

This meant that IEBC is a body known to the interviewees to run elections using modern ways of processing results. However, despite the formation of IEBC, there were still challenges faced during the 2013 General Election where the ballot verification register (BVR) kits malfunctioned in most polling stations.

#### **4.5.4 Reforms on security forces**

This was supported by 16.9% of respondents who said the government brought security reforms as recommended by the Kriegler Report (2008). Security reforms are meant to make the security personnel effective in carrying out their duties. It also revealed that victims were compensated as indicated by 13.5% of the respondents.

#### **4.5.5 Establishment of the National Council of Elders**

The findings from the respondents also indicated that 10.5% believed that there was an establishment of the national council of Elders. This was created to listen to communities ‘grievances and bring them on board. This is inconsistent with the role played by the Electoral Institute for Sustainable Democracy in Africa (EISA) model which according to Tohbi (2010) is premised on early intervention mechanisms and entrenches the notion of mediation, arbitration and facilitation of conflict resolution.

#### **4.5.6 Perpetrators of the 2007 general elections**

There were 10.5% of the respondents who believed that prosecutions of perceived perpetrators of General Election violence were executed. This is the process to prosecute those who were guilty of committing atrocities during the post-election violence.

During an interview with a village elder in Trans Nzoia County, he said,

Many have been picked for questioning, some have been convicted and others were vindicated because they were not guilty”. (Oral interview, Kachibora, 26 Nov. 2015).

This is evident from what took place in the ICC, in Hague, Netherlands where the six suspects namely Hon.Uhuru, Hon.Ruto, Ambassador Muthaura, Hon.Kosgey, General Ali and the journalist Sang were acquitted because they were found to be innocent. Those who were found guilty were detained. Atuobi (2010) established that two culprits were sentenced to life imprisonment for killing two people during 2007 post-election violence. In March 2016, the remaining cases which were affecting journalist Sang and Deputy President Ruto in the ICC were terminated because of lack of evidence. One elderly woman participant in an FGD in Kachibora said, “Nobody was jailed over election violence of 2007”. (Oral interview, Naikam 23 August 2015). The suspects seemed to have fled from their areas of residence. The authority was not serious about tracing the culprits. This meant that in Kachibora, little was done on tracing those involved in violence unlike in Uasin Gishu where some culprits were brought to book.

#### **4.5.7 Resettlement of internally displaced persons**

The least, 27.1% of the victims said that the resettlement of victims was carried out by the government. The ‘*Operation Rudi Nyumbani*’ initiative was used by the government to encourage the post-election victims to go back home to their farms through the Ministry of Special Programmes. The participants in the focused group were not satisfied with what the government was doing. Another elderly man participant in an FGD in Trans Nzoia County said,



Most of the victims from the locality returned after post-election violence but the government did not assist in resettling them”. (FGD, Makutano, 23 August 2015).

The government has introduced several measures but their performance according to the respondents did not have a great impact on society. The way the IDP resettlement is being implemented has not solved underlying grievances and disputes over land issues. Instead, it has created a feeling of marginalisation thus increasing ethnic tensions and the potential for future violence. Some communities feel the IDPs are being ‘rewarded’ through receiving compensation in terms of money or houses and others who also suffered have been neglected.

Resettlements are seen to be taking place in the absence of a substantive process to promote reconciliation and address the structural underlying causes of displacement, such as land tenure. Tensions may be generated by a perception of differential treatment of categories of IDPs in terms of the resettlement package. For example, one elderly woman participant in FGD from Uasin Gishu County said,

Should Luo migrant workers be compensated for the loss of earnings due to displacement? What about those long-term IDPs who have been waiting to be resettled for many years? How about the Kalenjins who suffered a great loss of property as a result of post-election violence?”. (FGD, Kodoo Farm, 20 September 2015).

There were many questions according to the interviewee who needed to get questions answered for those displaced either as a result of post-election violence or those who faced the same implications in the earlier years.

However, support to resettle IDPs in their so-called ‘ancestral’ homes would set a dangerous precedent. Implicitly, it would support the goals of those who had pursued displacement as a means of ethnically cleansing in certain regions. In some cases, it may also not represent a viable solution due to resistance from host communities. This could be the case, in Central Province, or in some other place where there are already significant pressures on local resources in both rural

and urban areas. In the absence of durable solutions, IDPs risk drifting into peri-urban areas (in particular slums) where they may be drawn into criminal activities – as in the case of the IDPs displaced during the 1990s. This means that there is still a loophole in the performance of government in all structures put in place to curb future occurrences as indicated by the participants.

One of the village elders respondents in Burnt Forest said that despite so many mechanisms in place, Kenya soon is likely to face another catastrophe. The participant emphasised that even after putting in place measures, many other challenges are making those measures unworkable. From the findings collected from all the data collection methods used, most of the measures put in place are not very effective as it is expected by the participants to curb future election violence. There is a lot to be done to curb any possibility of future violence. Electoral management practices for inter-ethnic relations contribute to election violence if not well managed.

#### **4.6 Effectiveness of Electoral Management Strategies Adopted in the Electoral Management Processes to Improve Interethnic Relations in Uasin Gishu and Tras Nzoia Counties**

**Table 4.17: Electoral Management Strategies Put in Place by the Government**

<b>Effectiveness of the Measures</b>	<b>Frequency</b>	<b>Percentage (%)</b>
Very effective	78	24.0
Effective	167	51.4
Less effective	65	20.0
Not sure	15	4.6
<b>Total</b>	<b>325</b>	<b>100.0</b>

As presented in Table 4.17, shows the responses of the victims of inter-ethnic relations during the 2007 General Elections which contributed to post-election violence. Data were collected from the two counties and integrated during analysis.

Of the victims who filled out the questionnaires, 167 (51.4%) said that electoral measures put in place by the government to check post-election violence were effective. The findings also indicated that 78 (24.0%) respondents deemed the measures as very effective, 65 (20.0%) said they were less effective and 4.6% were not sure about the effectiveness of the measures put in place by the government to check future election violence.

The 51.4% who thought the measures in place were very effective, was attributed to the 2013 General Elections which despite some challenges, the structures in place enabled peaceful voting and processing of election results without violence. This is asserted by Guardian (2013) that the 2013 General Elections were peaceful as compared to the past elections amid allegations of rigging by the opposition.

One of the young women interviewees in an FGD in Burnt Forest gave contrary information. She said, “Several measures are in place but are not addressing people’s needs”. (FGD, Burnt Forest, 16 August 2015). It simply meant that structures were in place but the implementation was not followed to the latter. Another young woman in Trans Nzoia County in an FGD said,

The authority has tried to come up with measures by introducing servers for transmission of processed results and implementing some Krigler reforms in the police sector which has enhanced the election process in the study areas and across the country”. (FGD, Kachibora, 22 August 2015).

The interviewee meant that the government in power contributed to the facilitation of putting measures in place which could minimize election violence as a result of inter-ethnic animosity in the study areas. The results indicated that the responses from the methods applied in the study areas were not similar. Those who were interviewed said the strategies applied were not

implemented meaning the implementations were not up to date while the respondents attributed to the success of the strategies adopted following the subsequent elections. This meant that the victims who gave their response were not well placed to understand the developments within electoral commission of Kenya.

Some of the respondents said that the measures in place are effective and others said that a lot has to be done. The smallest number 4.6% said that they are less effective. This is because the government has not fulfilled all the promises they promised before taking power and that is the reason for the recurrence of interethnic relations leading to electoral violence.

#### 4.6.1 Measures to alleviate electoral management challenges

**Table 4.18: Measures to alleviate challenges**

Action to correct Challenges	Responses	
	N	Percent
Unpoliticise EMB	108	16.5%
Address historical injustices	36	5.5%
Change constitutional reforms to address electoral reforms	109	16.7%
Availing more polling stations	109	16.7%
Opening the polling stations early	109	16.7%
Finance fully electoral bodies	73	11.2%
Avoid bribery of voters	36	5.5%
Intense civic education to the voter and polling clerks	36	5.5%
Compensate the displace fully without bias	37	5.7%
<b>Total</b>	<b>653</b>	<b>100.0%</b>

The victims who were interviewed suggested ways to correct the challenges of electoral management practices in the Uasin Gishu and Trans Nzoia counties. This was done by issuing questionnaires and interviews.

Quite a number 108 (16.5%) said that ECK should not be politicised, while 109 (16.7) said that changing constitutional reforms to address electoral reforms was important. Availing more polling stations was supported by 109 (16.7%) respondents, opening the polling stations early were 109 (16.7%), and those who supported fully financing electoral bodies 73 (11.2%), while those respondents who believed that compensating the displaced fully without bias was 37 (5.7%) and at the lower level were 36 (5.5%) respondents who believed that bribing voters should be avoided, providing intense civic education to the voter and polling clerks were 36 (5.5%) while 36 (5.5%) believed that addressing historical injustices could eliminate electoral challenges emanating from electoral management bodies.

#### **4.6.1.1 Unpoliticised Electoral Commission of Kenya**

According to the respondents, the prioritised actions to be taken included unpoliticising Electoral Commission of Kenya (16.5%). The victims of post-election said that a lot of interference from the executive takes centre stage. ECK deputy presiding official in Kachibora said that there was interference from the government on the running of ECK which resulted in an unaccepted outcome in the 2007 elections.

The electoral commission which is claimed to be independent is still interfered with by the executive either directly or indirectly. This concurs with the finding of Pintor (2005) that a wide variety of institutions are managing the practical aspects of elections. In some countries, the government administers elections (directing and controlling elections) while on the contrary, in other countries, the government runs the elections under the supervision of another authority that has been given full authority in controlling, monitoring, overseeing and evaluating elections. Therefore, ECK should be made independent to conduct its activities without interference from other branches of government. The results from the interviewees and the respondents are in agreement on issues of politicisation of ECK and interference from government authorities.

Therefore, it shows that government authority interfering with the running of the commission either financially or controlling it to their favour contributed to malpractices leading to interethnic hatred thus election violence.

#### **4.6.1.2 Changing constitutional reforms**

The change of constitutional reforms to address electoral reforms was supported by (16.7%). This is consistent with the clamour for comprehensive constitutional reforms in Kenya, which was dominated by the need to put in place a mechanism that could guarantee free, fair, transparent and credible elections (electoral reforms) as suggested by Kriegler's report (2008).

Further, it should address reforms that provide efficiency, professionalism, transparency, impartiality and independence, which are important preconditions to coming up with legitimate election outcomes (Lyons, 2005). Changing constitutional reforms enables the smooth conducting of the election process as long as the reforms are implemented later. An interview was conducted with a political aspirant in Uasin Gishu. She responded that the government should align the ECK rules in the constitution to avoid doubts. This to the informant is a way of curbing future problems during the election process.

#### **4.6.1.3 Early opening of polling stations and availing many polling stations**

Those respondents who believed to open the polling stations early were (16.7%) and those participants with the opinion to avail more polling stations were (16.7%). This is consistent with what took place in 1997 as reported that the credibility and integrity of elections were seriously questioned on issues of a large number of polling stations. (64%) failed to open on time and as stated in (IED,1998) that voting was disrupted by problems such as lack of sufficient voting materials, absence of election officials, or absence of political party agents.

One of the presiding officers in Burnt Forest said that where he was placed, the opening of the polling station was delayed for some hours because, on the way, the vehicle broke down. It took hours to be replaced because ECK management did not plan for emergency vehicles. This contributed to suspicion from voters since the Election Act stipulates that the opening and closing of polling stations must be opened on time as per the rules of the electoral management body. Availing more polling stations was supported by an election agent interviewee in Trans Nzoia who said, “*Many polling stations will speed up voting thus giving an opportunity to every voter to exercise his/her voting right*”. (Oral interview, Motosiet, 17 March 2021). This coincides with responses from the victims who believed that it will minimise interethnic relations which become strained as a result of animosity accruing out of it. Many polling stations will enable the successful conduct of elections.

#### **4.6.1.4 Address historical injustices**

Addressing historical injustices was supported by (5.5%) of respondents. These historical injustices emanated after the colonial second constitutional conference which agreed that the Europeans could surrender land on a willing seller-willing buyer basis resulting in the high inflows of people in the Rift Valley. The majority of immigrants came from Central Province (Mbithi & Barnes, 1975). This is consistent with Owuor (2013) who emphasised that the big picture of electoral challenges on a historical dimension emerges from historical injustices; hence needs to be addressed accordingly.

One of the respondents wrote that addressing historical injustices was addressing the underlying factor which is deeply rooted in society. In an electioneering period, anything affecting the election process ignites interethnic relations which are deeply rooted in Kenyan society and need serious intervention. The land question is an emotive factor that needs serious consultation on how to solve it.

#### **4.6.1.5 Intensive civic education**

Intense civic education to the voter and polling clerks were represented by 5.5%. This could have been because many voters are still ignorant of the real objective of voting. Most voters vote for the leadership based on the prevailing political wave which favours the political leader's self-interests. It has been established that ethnic identification is very strong in Kenya (Kimenyi, 1997). Further, the electoral outcome assumed that voting would proceed along ethnic lines. This is evident in the voting pattern during the General Elections in Kenya. Voters have not been provided with intense civic education rather, the electoral body has shown a lot of reluctance on the matter.

#### **4.6.2 Confirmation of ballot stuffing in the polling stations**

An interview was conducted with ECK actors to find out if there was ballot stuffing in the polling stations and the findings were that the majority of the participants said that there was no ballot stuffing in their areas of jurisdiction. This was a result of measures in place and the stakeholders could not give room to such practices. One of the polling agents in Kachibora said, "As I was manning as an agent of my PNU party in Trans Nzoia County, at Motosiet polling centre, all the ballot boxes were empty before the start of voting". This implied that because a party agent swears an oath of secrecy and must subscribe to the electoral code of conduct (Election Act, 2011), it was their responsibility to be vigilant in whatever was taking place during the election process.

On the other hand, one election agent who was interviewed said,

I did not bother to confirm if the boxes were empty or not. I remained outside trying to convince people to vote for a specific councillor". (Oral interview, Bonde, 7 March 2021).

According to Party's Act, election agents with strong allegiance and loyal support to the party or candidate are less likely to be bribed or induced by other actors in violation of the electoral code



of conduct and defect. This contributed to malpractices since the agents did not have strong allegiance and loyal support to the party in question.

#### **4.6.3 Measures put in place to mitigate ballot stuffing**

In any elections, there must be ways to curb election multi practices which contribute to interethnic relations. Ethnic relations when strained will cause obstacles to the smooth running of the election process. Therefore; measures are put in place to make the election process a success. In the study areas, the following measures were put in place to manage any malpractice caused by the stuffing of ballot boxes.

##### **4.6.3.1 Opening and closing of polling stations**

In most developing countries, ballot stuffing is common and it contributes to inter-ethnic relations leading to ethnic animosities. Therefore, the researcher carried out interviews with the election participants to find the measures available to curb ballot stuffing in the study areas. These are the responses from different interviews:

In Trans Nzoia County, a political aspirant who was interviewed said that the ECK officials are supposed to open and close polling stations at the right time as per the Election Act of 2011. This meant that opening stations at the stipulated time allows enough time and space for all actors to have confidence in the management of elections. This was in agreement with the county commissioner in Trans Nzoia County, who said,

I was at a polling centre when polling was started and I witnessed the beginning process which made me impressed with the process". (Oral interview, Kitale town, 26 Nov.2015).

From the interviews, it can be analysed that at the beginning of polling, measures were rightly adhered to. In Uasin Gishu, the interview was conducted with an observer and he said that all processes of opening and closing polling centres were adhered to. Only a few polling centres were

delayed in opening and closing due to the transportation of materials to polling centres because of long queues at the main tallying centres.

#### **4.6.3.2 Display of polling ballot boxes**

Another interview was carried out with the presiding officer in Uasin Gishu who said,

Displaying of ballot boxes was done openly for all the actors to confirm its emptiness. Every polling agent was to confirm and agree that the boxes were empty. Observers and the present political aspirants were given priority to confirm". (Oral interview, Chuiyat 3 Nov.2015).

This indicated that there was transparency from the ECK officials on the issue of ballot stuffing. No complaints were raised on that issue. In Trans Nzoia, there was a similar case of interviews with the polling and counting clerks. One counting clerk in Kachibora said that political aspirants and agents plus interested observers were given priority to exercise their rights during the opening of polling and closing to make sure that everything was intact. This portrayed that the process was smooth at that particular time.

#### **4.6.3.3 Counting process**

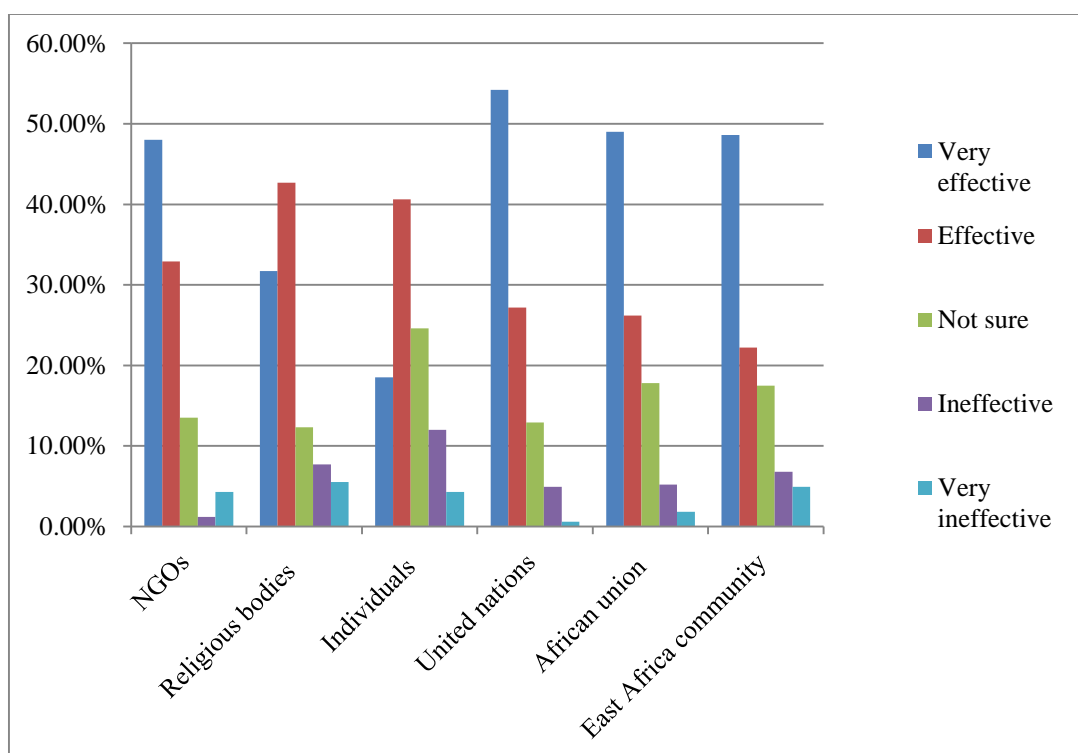
There was also the emergence of a counting procedure where immediately at the close of polling, polling clerks turn and take the responsibility of becoming counting clerks in the same polling stations. When a counting clerk in Kachibora was asked how they carried out counting in their polling station and this was what he said, he said that immediately after polling was closed, she changed the role to a counting clerk. She said they began the counting immediately by displaying each card to the voters to avoid suspicion from actors and followers.

This showed that the process in both the study areas was smooth without malpractices which is common in some countries in Africa. Birch and Allen's (2010) views were contrary in that the voting manipulation consists of a variety of electoral malpractices such as ballot box stuffing, misreporting, underprovision of voting facilities in opposition strongholds, and lack of

transparency in the organisation of the election process. In the presence of these malpractices, it breeds animosity among ethnic grouping which contributes to election violence.

#### 4.6.4 The role of various bodies in mitigating interethnic relations in the 2007 general election violence

The results on the effectiveness of various parties in post-election violence mitigations are presented in Figure 4.10



**Figure 4.9: Role of Institutions in Mitigating the 2007 General Election Violence**

*Source: Field Data (2015)*

The study derived from the data collected from the victims who filled the questionnaires and interviews from other actors who played role in the electoral management practices for interethnic relations in mitigating General Election violence in 2007.

From the findings, it is evident that the role performed by the institutions had the following percentages: NGOs had 48%, UN with 54.2%, AU 49% and EAC with 48.6% which the respondents said to have played effective roles. It indicates that UN played a crucial role with the highest percentage of 54.2%. Other institutions such as EAC and AU carry almost the same percentage showing that they had also a great impact. This was evident in the 2013 General Elections where preliminary statements from the international institutions such as EU, UN, AU and other commonwealth observer groups gave the polls a general thump up. This showed how the institutions are keen in monitoring General Elections globally. NGOs with 48% contributed a lot in their performance. Religious bodies fall in the same category with other non-governmental organizations. The least being individuals who were not very effective as compared to other actors.

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#### **4.6.4.1 Individuals**

The findings also indicated that 24.6% were not sure if individuals played any role during the General Election violence of 2007. This meant that did not have a great impact on the victims of

General Election violence. There was no major involvement with the individual actors because of the sensitivity of the matter at the local level as compared to the national level. Eminent persons such as Koffi Annan and others played a crucial role in bringing the PNU and ODM parties to form a coalition government. Generally, the UN was the most identified institution that was considered to be very effective. This demonstrated that the majority said that the UN did a lot of work for the victims using UN agencies such as Red Cross and Amnesty International.

#### **4.6.4.2 Non-Governmental Organisations**

One of the camp administrators in Uasin Gishu County who was the interviewee said,

Non-Governmental organisations were helping the victims without bias, conducting reconciliation meetings frequently, rebuilding schools and even doing some renovations in the marketplaces.” (Oral interview, Langas estate 5 Nov.2015).

This participant was praising the activities of the institutions which they said did a lot of work without any discrimination among different ethnic communities. Different ethnic groups were grouped at Eldoret Showground before they were dispersed to different locations. This portrayed unity among different ethnic groups.

#### **4.6.4.3 African Union**

The findings also indicated that 49% of the respondents said that AU was very effective. This was because African member states under the umbrella of the AU did intervene in Kenya’s General Election violence. Present among the presidents were from Tanzania, Uganda, South Africa, Rwanda among other nation-states from Africa who supported the power-sharing deal. This is consistent with Shale’s (2010) study which explains the benefits of temporary sharing of power among conflicting groups to bring peace in the society. One elderly woman participant in an FGD in Uasin Gishu County said,

I was among the persons who were displaced as a result of inter-ethnic relations due to violence that occurred in the 2007 General Elections. The presence of African Union leaders gave us hope once again and we found the courage to go back to our homes”. (FGD, Kodoo Farm, 20 August 2015).

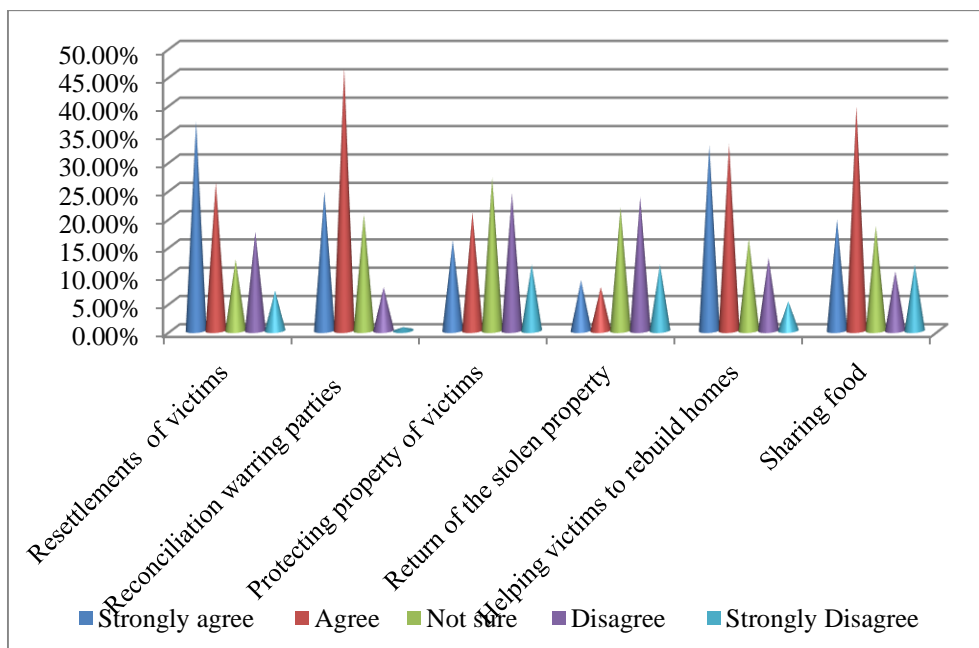
This showed that the presence of leaders from other countries gave them hope that everything was returning to normalcy. That paved way for the victims to go back to their homes and resume their lives normal lives.

#### **4.6.4.4 East African Community**

Of the victims’ respondents 4.9% said that EAC was very ineffective because the respondents did not experience the impact of this institution. From the findings, the majority is in support of the UN, AU and non-governmental organisations putting a lot of emphasis on the church.

#### **4.6.5 Initiatives by the victims and the surrounding communities to mitigate the effects of 2007 post-election violence**

The findings showed that several initiatives were put in place by the victims and the surrounding communities to mitigate the effects of 2007 post-election violence. The majority 119 (37%) of the respondents said that they strongly agreed that the resettlement of victims was done by the victims themselves and the neighbouring communities and some were not sure- 41 (12.6%), while those who disagreed completely were 57 (12.5%). The findings also indicated that 23 (7.1%) strongly disagreed that resettlement was not the initiative of victims and surrounding communities. Those who strongly agreed that reconciling parties was the initiative of the victims and the neighbouring communities were 80 (24.6%). The findings also showed that 151 (46.4%) agreed that reconciliation of the warring parties was done by both parties, while 67 (20.6%) were not sure. Those who disagreed were 25 (7.7%) while those who strongly disagreed that the initiative of reconciliation was from the victims and the surrounding communities were 2 (0.6%). The results are displayed in the figure above.



**Figure 4.10: Initiatives by the Victims and the Surrounding Communities to Mitigate the Effects of 2007 General Election Violence**

*Source: Field Data, 2015*

Further, the findings indicated that 52 (16%) strongly agreed that the protection of property was the initiative of both parties while the following 68 (20.9%) agreed that it was their initiative. The study also indicated that 88 (27.1%) of the respondents were not sure. Those who disagreed were 43 (13.2%) and those who strongly disagreed that it was the initiative of the victims and the neighbors were 38 (11.7%). Regarding the return of the stolen property; the findings indicated that 29 (8.9%) strongly agreed that property was returned to the owners while those who agreed were 25 (7.7%). Those who were not sure were 71 (21.8%). The majority 129 (37.9%) strongly disagreed that the property stolen was returned.

About helping victims rebuild their homes, those who strongly agreed were 106 (32.7%), and those who agreed were 107 (32.9%) while those who were not sure were 53 (16.3%). Those who disagreed were 42 (12.9%). The findings also indicated that 64 (19.7%) strongly agreed that

sharing of food was the initiative of the two parties while 129 (39.7%) agreed. Those respondents who were not sure were 60 (18.5%) and those who were who disagreed were 34 (10.5%).

#### **4.6.5.1 Resettlement of victims**

From the interpretation based on figure 7.2, the respondents had different opinions on how the victims and the surrounding communities came up with initiatives to try and mitigate the effects of General Election violence. It was revealed that the majority (27%) strongly believed that the victims and the neighbors contributed greatly to their resettlement after the General Election violence. This was because some of those who were affected directly or indirectly after frequent reconciliations decided to go back to their farms and continued with their normal lives. Some decided to remain behind even after reconciliation because some did not have farms or proper homes. Another elderly man lamented from an FGD in Uasin Gishu County said,

I decided to go back to my farm; after all, violence was over. Even if much was destroyed, we forgave one another and live must go on". (FGD, Burnt Forest, 3 August 2015).

This meant that life must go on despite past experiences. It is his farm and he must be there.

Another village elder in Burnt Forest said,

"This is an opportunity that comes once in a lifetime. If the government is compensating the victims let it be so". (Oral interview, Burnt Forest, 3 August 2015 2.00 to 4.00 pm).

From his words, some people took advantage of the situation for their selfish interests. Another one in an FGD in Kachibora said, "We decided to forgive one another and continue with our usual activities". (Oral interview, Kachibora, 22 August 2015). This was because the competing groups decided to co-exist together peacefully despite interethnic differences on the issue of election violence. The smallest percentage of the respondents 27.1%) were hesitant that resettlement was not the initiative of victims and surrounding communities. This was because they were sure of the



tensions emerging among communities in these areas. One elderly man participant in an FGD in Uasin Gishu County said,

The environment is still not conducive even after many years of the 2007 violence. Compensation done by the government was not fair at all. How do you expect others to feel including the minority communities?" (Oral interview, Burnt Forest, 3 August 2015).

Another young woman in Burnt Forest in an FGD added, "*They constructed houses for the rest but my house was burned down too. What did I get in return! Nothing*". (Oral interview, Burnt Forest, 16 August 2015). This was because the affected were expecting to be compensated equally which was not forthcoming. Thus, creating enmity among different ethnic groups who were involved in election violence in the 2007 General Elections.

The majority of the respondents (21.7%) were not sure if it was the initiative of the victims and the neighbours to protect the property of those who were affected. They expected the state to take responsibility for protecting the property of Kenyan citizens. Other respondents, 20.9%, agreed it was the initiative of both parties to protect the victims' property after the General Election violence. One political aspirant in Uasin Gishu County said,

We must protect [the] property of others. They have been living peacefully with us for many years." (Oral interview, Kesses shopping centre, 6 March 2021 3.00 to 4.00 pm).

This meant that communities live happily outside the electioneering period. Interethnic tensions emerge among communities when elections are held leaving bad implications in the society.

#### **4.6.5.2 Return of property**

Regarding the return of the property, the majority (37.9%) strongly disagreed that the property was returned. This was because during election violence, people's properties were destroyed and some were stolen. The destroyed property could not be returned and the stolen had exchanged hands. Few respondents 8.9% believed that the property of victims was returned to them. A young

woman participant in an FGD in Kachibora said, “Her cow was returned to her when she returned home”. (FGD, Kachibora, 22 August 2015). This was because they were trying once again to revive their trust and friendship and the co-existence of a good neighborhood.

#### **4.6.5.3 Sharing of food**

Sharing of food was another question that was asked to the respondents in the field and the findings were as follows: Out of those who participated, 39.7% agreed that it was an initiative of both parties to share food and those respondents who strongly agreed were 19.7%. This meant that the respondents said that even with the challenges they were facing, on humanitarian grounds, they shared the little food they had. One of the elderly woman participants in an FGD in Burnt Forest said, “Despite our differences in politics, we got food from our opponents”. (FGD, Kondoo farm 20 August 2015). This was because when people disagreed over issues, they will still value their past relationships and sharing food in the African traditional set-up is a way of mending relationships once again.

Few respondents (10.5%) disagreed while those who strongly disagreed were 11.7% that people shared food among themselves. This is elaborated by one of the local chiefs in Kachibora, who said, “What I have been seeing is the exchange of food between party affiliates only”. (Oral interview, Kachibora, 26 Nov. 2015). This participant meant that relationships after the 2007 General Elections violence did not give room for the exchange of food and other items. But the percentages indicated that those who agreed that food was shared carried the highest percentage among those who filled out the questionnaires as compared to those who were interviewed. The discrepancy in the findings was due to the existing environment.

#### **4.6.6 Respondents' own opinions on measures to be put in place to mitigate future election violence in Kachibora and Burnt Forest**

The respondents gave their responses by filling in the structured part of the questionnaires and the following information. Other interviewees were also interviewed to get their side of the story on measures to curb election violence in the future. The victims of the 2007 General Elections were asked to give measures that they thought could be put in place to avoid future General Election violence and their responses were varying. The researcher classified them into themes; a majority of the respondents said that to avoid future election violence, security measures should be in place; the majority of victims participants wanted the government to increase the number of security personnel, especially in the known hot spots areas in Kachibora and Burnt forest since election violence was rampant in 2007 General Elections. A security officer in Burnt Forest said,

For this repeated election violence to end, the number of securities should be increased to enable us to manage the area effectively". In Kachibora, another security officer was interviewed and she said, "The numbers to man the area is not a problem but motivation is a driving force behind everything". (Oral interview, Burnt Forest police station, 15 Nov. 2015).

This meant that from those interviews, the main issue was to increase the number of security officers to enable effectiveness. This was supported by a majority of participants who filled out the questionnaires but in Trans Nzoia, security officers needed to be motivated by the government to ensure that officers work effectively. They also suggested the increase of police officers in their stations ranging from at least five to twelve police officers and police posts depending on the population available. One young man in Trans Nzoia County in an FGD said,

We are now assured of enough security since the government has increased police posts like primary schools". (FGD, Seum, 24 august 2015).

This implied that in some areas prone to violence, the number of police stations has increased and the residents feel more secure than before.

In addition, the government should devise a way of rotating the security personnel across the country to avoid the residents getting used to police officers in one place. One village elder Burnt Forest said that if he was in charge, he could not allow police officers to be in place for more than three years. This is because when police officers are allowed to be in place for more than three years, they get used to the residents and they can easily be manipulated.

Some suggested the strengthening of community policing in local and urban centres as stated by the victims. One of the local village elders in Burnt Forest interviewee remarked,

Community policing has been effective elsewhere so long as the county governments can be part of it". In addition, another participant said, "Even the 'Nyumba Kumi initiative' will work well if funded by the government".(Oral interview, Burnt Forest shopping centre, 14 Nov. 2015 2.00 to 4.00 pm).

Apart from the police officers from the government, respondents prefer having community policing as long as the government provides some funding support. The community policing services are the communities and they understand their problems better. This gives them a lot of confidence and trust in their work.

Another theme that emerged was how to unite people after the General Election violence. A few of those victims who answered structured questionnaires indicated that reconciliation should be given priority over other issues. This is because reconciliation is one of the methods used to resolve disputes in Kenya and it has proved to be more effective in the area of study. This is consistent with what Mehler (2007) indicated in his study that conflict resolution mechanisms are effective in election-related conflicts.

There was also another suggestion from some of the participants that land issues should be given priority in resolving and addressing historical and political injustices. This was because land issues have been a major problem since independence in Kenya. Tribes have been fighting over land ownership and especially in the white highland areas to date. According to Mbithi and Barnes

(1975), in his study, the majority of the immigrants in the Rift Valley came from Central Province. In an interview with a Focus Group Discussion in Burnt Forest, one participant said that land is a teething problem because the inhabitants sell land to new immigrants only later to develop some cold blood between the buyer and the seller. This created bad blood between the inhabitants and the new immigrants which contributes to election-related violence.

There are also some of the underlying factors of General Election violence that need serious attention according to the participants. A young man participant in a Focused Group Discussion lamented in Burnt Forest,

We were born here and we are told to go, where are we going because in central, we do not have any property?" (Oral interview, Chuiyat 3 August 2015 from 2.00 to 3.00 pm).

This participant was saying that she does not have any other home. She said her home is where she was born. This is reflected in the Kenyan constitution which states that every Kenyan citizen is free to live anywhere in the country one so wishes.

Another opinion that emanated from some Trans Nzoia and Uasin Gishu respondents was to make sure that elections are free and fair. For the effectiveness of elections, an electoral code of conduct obliges political parties to respect the political rights and freedoms of others and ensure the freeness and fairness of the elections as indicated by Ndulo and Lulo (2010). Respondents suggested having a transparent IEBC and reforming it where necessary according to democratic principles. A transparent electoral commission conducts free and fair elections. Concerning what happened in the 2007 General Elections violence, returning officer from Trans Nzoia said,

The independent electoral commission started well with voter registration, conducting of voting and releasing the results of members of parliament and councilors. The problem started when presidential results were counted and tallied in different parts of the country. It made people to be curious about the outcome of the results". (Oral interview, Kitale town, 26 Nov.2015).

The participant was saying that everything went on smoothly from the registration of voters to voting and announcement of results for members of parliament and councilors. The problem sparked off when presidential results were announced. That was why respondents preferred to have a free and fair election conducted by a transparent electoral commission. They did not favour a biased electoral body.

Other suggestions included conducting civic education to citizens and creating political awareness, punishing perpetrators, preaching unity by the media and encouraging effective functioning of proper decentralisation or devolved systems of governments.

The effectiveness of mechanisms put in place to mitigate negative interethnic relations depends on the effectiveness of the electoral body and the government's transparency in running the activities of the election process. The ineffective mitigation measures great animosities among ethnic groups which contributes to election violence in every election cycle. Transparency, fairness and openness are very crucial for the conduct of free and fair elections.

## CHAPTER FIVE

### SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

#### 5.1 Introduction

This chapter presents a summary of the findings of the study, conclusions, recommendations and suggestions for further research.

#### 5.2 Summary of the Findings

Objective one was to find out the pattern of electoral management in the 2007 General election on interethnic relations and the findings have shown that disputed presidential results were the most likely cause of electoral management practices for interethnic relations to 2007 General Election violence, followed by political incitement and ineffective E.C.K in conducting elections. This resulted in ethnic hatred which is a recipe for election violence in every electioneering period in Kenya. Others emerged such as ethnic cleansing, land disputes, unemployment, media incitement, and the least being poverty. The results indicated that land disputes were not the likely cause of General Election violence but contribute to the build-up of ethnic tensions which ignites election violence. Ethnic identity, unfair distribution of resources, jealousy and envy were cited by those who participated in the interviews.

Some respondents said that the 1997 Electoral management practices in Uasin Gishu and Trans Nzoia election violence were related to the 2007 post-election violence. Others related it to the 1992 General Election violence. Few participants related it with the 2002 General Election violence which was very minimal and occurred mostly in urban areas of Nairobi.

From the findings, a majority of the respondents said that the 1997 and 2007 election violence causes were related. This was because the 1997 elections were facing similar stiff competition

between the opposition and the ruling party KANU which was the case in 2007: PNU versus ODM parties were competing. The competition was so close that the voters could not easily detect who was to emerge as the president of the Republic of Kenya. From this interpretation, electoral management practices within the ECK had almost similar characteristics but the 2007 post-election violence was extreme and unique.

It emerged from the findings that mitigating measures have been put in place to check on electoral management of the Post-Election violence in Uasin Gishu and Trans Nzoia Counties. The following mitigating measures were cited by the participants .These were; the establishment of IEBC, the establishment of TJRC, compensation of victims for property lost, prosecution of perceived perpetrators of General Elections violence, and resettlement of victims. From the study analysis, it shows that the relevant authorities have not done enough to put in place mitigating measures to address electoral management practices which contribute to electoral violence.

The effectiveness of electoral management measures put in place by the Government to address post-election violence was majorly supported by respondents indicating that the measures were effective. This was supported by the fact that the 2013 General elections were smooth with few hitches affecting presidential elections which were sorted without election violence. However, some respondents believed the measures were less effective. One of the interviewees gave contrary information. He said, “Several measures are in place but are not addressing people’s needs”. This simply means that structures are in place but the implementation is not followed to the later.

From the findings, it is evident that several institutions had played effective roles with the UN being the most effective. Other institutions included NGOs, AU, and EAC. Individuals were also seen to have played a role though not much of an impact on the victims. The findings show that several initiatives have been carried out by the victims and the surrounding communities to



mitigate the effects of 2007 post-election violence. Such initiatives included the return of stolen property, sharing of food, and resettlement of victims. The majority of the respondents said that they strongly agreed that the resettlement of victims was done by the victims themselves and the neighbouring communities. This is because some of those who were affected directly or indirectly after frequent reconciliations decided to go back to their farms and continue with their normal lives. Some decided to remain behind even after reconciliation because some did not have farms or proper homes. The findings also indicated that resettlement was not the initiative of victims and surrounding communities, because tensions were still experienced among communities. The findings also show that reconciliation of the warring parties was done by both parties because all the parties agreed on the proper resettlement of the victims.

The respondents were asked to give their own opinions on measures to be put in place to mitigate future election violence in Uasin Gishu and Trans Nzoia Counties and their responses were varying. The majority would want the government to increase the number of security personnel, especially in the known volatile areas and should devise a way of rotating the security personnel across the country to avoid the residents getting used to police officers in one place. Some suggested the strengthening of community policing in local and urban centers.

The majority of the respondents suggested that reconciliation should be given priority over other issues. This is because reconciliation is one of the methods used to resolve disputes in Kenya and it has proved to be more effective in the area of study according to the findings. There was also another suggestion from some of the participants that land issues should be given priority in resolving and addressing historical and political injustices. This was because land issues have been a major problem since independence in Kenya. Tribes have been fighting over land ownership and especially in the settlement schemes. Respondents suggested having a transparent IEBC and reforming it where necessary according to democratic principles. A transparent

electoral commission conducts free and fair elections. This means that to avoid a repeat of the same, the government should address electoral process mechanisms and emphasise reconciliation and solve historical injustices.

Study findings indicated that what emerged was challenges emanating from electoral management practices were enormous. A majority (88.9%) of the respondents believed that ECK contributed to 2007 post-election violence while very few believed otherwise showing a link between ECK operations or management with the 2007 post-election violence. In particular, part or some structural context of electoral management practices caused the 2007 post-election violence

A higher percentage of respondents (55.7%) said that there was a similarity in electoral management practices in the two counties. Many challenges emanated from electoral management practices in Uasin Gishu and Trans Nzoia counties in 2007 post-election violence some of which were more pronounced than others. The challenges that stood out included suspicion among residents, tribalism, failure of EMB officials to manage results, inadequate polling stations, late opening of polling stations, harassment, lack of trust by polling officials and late announcement of results among others. These contributed to ethnic hatred among different communities paving the way for election violence in the study areas.

The participants suggested ways to overcome the challenges of electoral management practices which included unpoliticized ECK, changing constitutional reforms to address electoral reforms, availing more polling stations, opening the polling stations early, and fully financing electoral bodies. Other ways mentioned were compensating the displaced fully without bias and addressing the rooted historical injustices which emanated during the colonial period that respondents thought could eliminate electoral challenges emanating from electoral management bodies. The results implied that whereas there were many challenges, there is a need to make EMBs to be independent to carry out their work. There is also the financial endowment of such bodies that

will guarantee them independence and more so forge unity among members of different ethnic groups for future avoidance of election violence.

### **5.3 Conclusion**

By reviewing a wide range of available literature and primary data obtained from questionnaires, interviews and Focus Group Discussions, the researcher concluded that indeed the pattern of violence was complex and it spread across the country. It was found that electoral management practices have a pattern of instigating disputes that eventually contribute to interethnic violence. This is shown by the findings collected from different methods of data collection used. The Electoral Commission of Kenya was believed to be a major contributor to the 2007 General Election violence with a majority 245 (75.5%) of respondents citing that officials of the election commission of Kenya were not doing enough following the rules and regulations of the ECK. The study found that the majority of the respondents indicated that General Election Violence was ethnic-related and of high magnitude. It also found that the disputed presidential results were the most likely (80%) cause of post-election violence. the Land was however not the most likely (31.7%) cause of post-election violence. Therefore it concluded that ECK practices had a pattern that instigated General Election disputes that contributed to interethnic relations leading to electoral violence.

From the findings, how the EMB conducts its operations or managed the election had a link with General Election Violence. In particular, part or some structural context of electoral management practices caused the 2007 post-election violence. This is because the electoral management body is vulnerable to politicians and government authority's manipulations thus facilitating electoral management practices that fuel interethnic violence during General Elections.

The study also found that ECK faced a lot of challenges in conducting the 2007 General Election. This is because the electoral management body is easily influenced by the political class in favour of their political party affiliations. The challenges faced ranged from poor coordination, lack of finance, inadequate voting materials, missing names in the voting registers, numbers of personnel and polling stations were not enough. Thus it was found that electoral management was adversely affected by political influence and majorly funding of ECK which hinder infrastructural facilities that facilitate the smooth running of elections.

Finally, the study concluded that several strategies were adopted by the electoral body and the government such as the establishment of the TJRC, a reformed IEBC, reformed security, 'Rudi Nyumbani' initiative but all these have not worked well for the expectations of the voters which still facilitates interethnic violence during elections. Therefore electoral management body ought to be restructured to have a positive impact on interethnic relations in Uasin Gishu and Trans Nzoia Counties.

#### **5.4 Recommendations**

This study recommends that to prevent and manage the causes and consequences of violence, a policy for electoral violence management especially monitoring and voter-centered strategies is needed to be carried out on a long-term basis and continue between general elections.

Practitioners and policymakers on electoral violence management should; Support political party development, citizen education and media training, continuously monitor volatile areas during and especially around any by-elections and allocate adequate resources for maintaining monitoring capacity during elections.

The study also recommends that the electoral laws can set out the legal constraints on the use of violence, the mandate and powers of the election management bodies as well as regulations on

who may stand in elections. Such laws can also stipulate an electoral code of conduct, which can involve agreement on the avoidance of hate speech and other activities that may spur violence and polarisation among inter-ethnic communities.

Further, the study recommends that a study be done on areas where election violence is common, especially in cosmopolitan towns and rural areas. To go to the roots of the matter and address issues emanating from those local communities because they understand their problems better.

There should be health collaboration between national security forces, local security forces, peace workers, political parties, voters and other relevant actors during the electioneering period

The study also recommends that a study be done on areas where election violence is common, especially in cosmopolitan towns and rural areas. To go to the roots of the matter and address issues emanating from those local communities because they understand their problems better.

The appointment of elected officials such as the returning and presiding officers should be done on merit and experience without minding the locality of the tribe. Adoption of a proper method of the selection process through a competitive selection process for different positions based on merit will promote competency devoid of partisanship and discrimination. This will minimize suspicions from the voters in the two counties

Another important recommendation is that reconciliation should be given priority over other issues. This is because reconciliation is one of the traditional methods used to resolve disputes among communities and it has proved to be effective. People should be taught how to understand one another despite their uniqueness among them. Let them be guided by reason, good morals and avoid hurting others directly or indirectly. All in all, every effort should be made to ensure that community members own the intervention mechanisms carried out in their communities

The study further, recommends that since different institutions play a role in the General Election Violence either positively or negatively, there should be more emphasis on NGOs especially the church which plays a major role in giving guidance especially where the commission fails to unite different ethnic communities

Land being an emotive issue should be addressed with soberness. This is through understanding historical injustices inflicted on other people. This should start with resolving land issues and addressing historical and political injustices. Any peace education program should include matters about land problems in Kenya as a substantive theme delving into, among others, issues of land ownership, both from the legal and traditional perspectives and arrive at an agreed standpoint. This will reduce ethnic animosity in hot spot areas, especially in Burnt Forest and Kachibora. There is a need for politicians and religious leaders to preach peace in their constituencies and teach people the importance of peaceful co-existence.

To address the underlying causes of electoral violence, the study recommends decentralisation of power of the economic development programmes, executive office including separation from the security forces to strengthen the role of parliament and implement broad-based socio-political programmes.

the study recommends that in Uasin Gishu and Trans Nzoia Counties, the appropriate legal framework on logistics and finances be addressed. This will enhance staff building capacity. The government should adequately and in time finance the electoral body in order to carry out its mandate effectually.

The study recommends that electoral management should ensure that officials serving in the electoral process in a specific area should not only come from the locality but should be a

combination of diverse ethnic groups from different counties. This should minimize interethnic animosities. Thus, avoiding the notion that voting should be done on ethnic lines.

The study also recommends that the security personnel should not be a hindrance during the voting process; that the security officials should be far from the voting areas to enable voters and electoral officials to do their work freely without intimidation. Also, security officers should be trained to fully understand the importance of the voting process.

ECK should hire vehicles that are in good condition and avail extra government vehicles to stand by in case of emergencies. The electoral management should devise a way to stop illiterate voters from being misled during the voting exercise. Many times, they vote for the wrong candidates who are not of their choice. The study recommends the provision of enough electoral materials and equipment for the smooth running of the polls.

There is a need to implement conflict-prevention policies and measures in advance, as opposed to post, ad hoc, and reactionary measure systems/institutions to monitor, prevent, rid of and manage General Election violence throughout the electoral cycle.

To participate meaningfully, citizens should get the necessary civic education to enhance their ability to confidently engage politicians on various issues touching on their (citizens') interests. To inculcate into citizens a culture of issues and not a culture of money and patronage. This can be done through sensitisation of citizenry on matters of the election process by uplifting literacy levels through proper civic education. Integrity should be emphasized at all levels. When this approach is upheld, negative ethnicity will be mitigated.

The study further recommends that in handling cases to do with general election violence, the government should see to it that compensation of the victims of General Election violence is done fairly without discriminating against the small communities and those perceived to be perpetrators

who may also be victims. This will rid hatred among communities created by structural institutions.

The government should double the number of security personnel in the known hot spot areas. The principle of rotating the security personnel across the country should be introduced to avoid the residents getting used to police officers in one place for a long time; doubling the number of police officers in their stations ranging from at least ten or more and police posts depending on the population available.

Facilitating community policing in local and urban centres by the county governments will minimise build-up tensions that emanate from thefts and other related issues resulting in interethnic animosity. Communities should be taught the goodness of co-existence. The youth, who are the active population, should be engaged in productive activities to deter them from being easy prey for politicians during electioneering periods. Steps towards empowering the youth should include technical education to enhance their capacity to engage in skilled labour and the improvement of educational opportunities.

Another recommendation from the findings is educating the youth about the consequences of violence right from a tender age. The culture which has been inculcated in the young minds must be changed from the younger age and it should be done from early childhood education to the institutions of higher learning. In addition, encourage intermarriages among communities which will automatically create bondage and avoid violence in the future.

The study also recommends that the residents within the areas of study should be sensitised to stop using mother tongue names in villages and shopping premises but rather use general names in to minimise tensions and hatred among communities. For peaceful elections to be conducted, effective measures should be put in place to address ethnic animosities. There is a need to



empower communities with strategies to embrace the projects of the National Commission for Social Cohesion, which will deal with the long-term issues beyond TJRC; and the National Commission for Social Cohesion should invest in peace, media and democratisation. This should be done by understanding the underlying factors which contribute to these animosities.

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

The study recommends the following areas for further research:

1. A similar study be conducted in other hot spot areas in the country, particularly in areas that have been volatile during the previous General Elections Violence.
2. A comparative study to be done between peaceful General Elections and General Elections violence in Kenya since the advent of multi-party politics.
3. The study also suggests research to be done on a detailed comparative study of Electoral Management Practices in 2013 and the 2017 General Election Violence in Uasin Gishu and Trans Nzoia Counties.

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## APPENDICES

### APPENDIX I: LETTER OF AUTHORIZATION BY GRADUATE SCHOOL



## KISII UNIVERSITY

Telephone: +254 20 2352059  
Facsimile: +254 020 2491131  
Email: [research@kisiiversity.ac.ke](mailto:research@kisiiversity.ac.ke)

P O BOX 408 – 40200  
KISII  
[www.kisiiversity.ac.ke](http://www.kisiiversity.ac.ke)

### OFFICE OF THE REGISTRAR RESEARCH AND EXTENSION

REF. KSU/R&E/3/5/104

DATE: 16<sup>th</sup> April 2015

### TO WHOM IT MAY CONCERN

RE: **ESTHER JEPTANUI ARUSEI, REG. NO. DAS/60119/14**

This is to confirm that the above mentioned, is a student of Kisii University currently pursuing a Doctor of Philosophy Degree in Political Science of Kisii University. She is embarking on a research topic, "**General Elections and Violence in Kenya: Special Reference to Uasin Gishu Trans-Nzoia Counties**"

Kindly accord her any assistance in terms of a research permit.

Thank you.

Prof. Anakalo Shitandi, PhD  
**Registrar, Research and Extension**

AS/gn

KISII UNIVERSITY IS ISO 9001:2008 CERTIFIED







**APPENDIX II: AUTHORIZATION BY NATIONAL COUNCIL FOR SCIENCE AND TECHNOLOGY**

**CONDITIONS**

1. You must report to the County Commissioner and the County Education Officer of the area before embarking on your research. Failure to do that may lead to the cancellation of your permit
2. Government Officers will not be interviewed without prior appointment.
3. No questionnaire will be used unless it has been approved.
4. Excavation, filming and collection of biological specimens are subject to further permission from the relevant Government Ministries.
5. You are required to submit at least two(2) hard copies and one(1) soft copy of your final report.
6. The Government of Kenya reserves the right to modify the conditions of this permit including its cancellation without notice.

  
**REPUBLIC OF KENYA**

  
**NACOSTI**  
**National Commission for Science, Technology and Innovation**

**RESEARCH CLEARANCE PERMIT**

Serial No. A **5574**

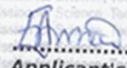
**CONDITIONS: see back page**

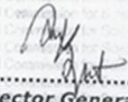
**THIS IS TO CERTIFY THAT:**  
**MS. ESTHER JEPTANUI ARUSEI**  
**of KISII UNIVERSITY, 1278-30100**  
**eLDCRET, has been permitted to conduct**  
**research in Transzoia , Uasin-Gishu**  
**Counties**


Permit No : NACOSTI/P/15/4612/6222  
Date Of Issue : 30th June,2015  
Fee Received :Ksh 2,000

**on the topic: GENERAL ELECTIONS AND VIOLENCE IN KENYA: SPECIAL REFERENCE TO UASIN GISHU AND TRANS-NZOIA COUNTIES**

**for the period ending:**  
**6th November,2015**

  
**Applicant's Signature**

  
**Director General**  
**National Commission for Science, Technology & Innovation**



### **APPENDIX III: INTRODUCTION LETTER**

**Dear Sir/Madam**

This research is part of a study on, “Implications of Electoral Management Practices on Interethnic Relations: A Case of 2007 Elections in Uasin Gishu and Trans-Nzoia Counties, Kenya by Esther Jeptanui Arusei, REG. No.DAS/60119/14 pursuing a doctorate degree of philosophy in political science at Kisii University. The data I intend to collect is purely for academic purpose. Kindly respond to the following questions as honestly and truthfully as possible. All information provided by you will be kept strictly confidential. Do not indicate your name or identification on this questionnaire. Thank you for your support.

Yours faithfully,

Esther Jeptanui Arusei,

## APPENDIX IV: QUESTIONNAIRES

### a) Questionnaire for Victims

#### INSTRUCTIONS

Please answer the following questions as truthfully and honestly as possible by Ticking (✓) in the appropriate box or writing the answer in the space provided

1. Name \_\_\_\_\_

2. Age \_\_\_\_\_

3. Gender \_\_\_\_\_

4. Place of residence \_\_\_\_\_

5. Mobile No \_\_\_\_\_

6. Marital status \_\_\_\_\_

1. a) Do you agree with the composition of electoral commission of Kenya at the constituency level? (Yes) or (No) .Please tick appropriately.

b). In your own opinion, what do you think were the factors which affected the electoral commission of Kenya in conducting the 2007 General Elections in the areas of study? Explain them briefly.

2. How would you classify the pattern of post-election violence of 2007? **Tick (✓) as appropriate.**

---

Ethnic related ( )

Spontaneous ( )

Land related ( )

Political ( )

Not sure ( )

Planned ( )

If others, please specify.

3. How do you rate the magnitude of the 2007 post-election violence? (**Tick the intensity of violence you deem appropriate**)

Very low intensity ( )

Low intensity ( )

Average intensity ( )

High intensity ( )

Very high intensity ( )

4. How would you describe the nature and pattern of 2007 post- election violence? (**Please tick appropriately**)

Nature &Pattern	Less likely (1)	Moderately (2)	Not sure (3)	Most Likely (4)
Political				
Electoral Management				

Economic				
Ethnic Animosities				

If others, Please specify

5. How would you describe the contribution of the government and other bodies during the 2007 post-election violence in Kenya? **(Please tick appropriately)**

<b>Rating Involvement</b>	<b>Biased (1)</b>	<b>Unbiased (2)</b>	<b>Perpetrators (3)</b>	<b>Indifferent (4)</b>	<b>Not sure (5)</b>
Government					
Politicians					
Media					
Electoral Body					
Citizens					
Security					
NGO's					

5. Was the 2007 post-elections violence similar to the previous general election violence?

Yes ( )                      No ( )

Support your answer

**Structural Context of Electoral Management on Interethnic Relations Contributing to Election Violence of 2007 in Uasin Gishu and Trans Nzoia Counties**

1. a) Do you agree with the composition of electoral commission of Kenya at the constituency level? (Yes) or (No). Please tick appropriately.

b).Do you think the ECK officials contributed to malpractices of 2007 post election violence?

Support your answer

3. What were the most likely causes of 2007 post-election violence? **(Tick appropriately)**

<b>Causes</b>	<b>Less Likely (1)</b>	<b>Moderately (2)</b>	<b>Most Likely (3)</b>
Land disputes			
Ethnic cleansing			
Disputed presidential results			
Media incitement			
Poverty			
Ineffective Electoral Commission of Kenya			
Rampant unemployment among the youth			
Political incitement			

Others, please specify

4. To what extent do you think the causes of 2007 post-election violence were similar to the previous election violence? **(Please tick appropriately)**

<b>Year</b>	<b>Very related</b>	<b>Related</b>	<b>Not sure</b>	<b>Less related</b>	<b>Not related at all</b>
1992					
1997					
2002					

5. a)What do you think specifically contributed to 2007 post-election violence in your area?

b) Other than the factors mentioned above, what else do you think was responsible for the 2007 post-election violence?

**Challenges of Electoral Management Practices on Interethnic Relations in Uasin Gishu and Trans-Nzoia Counties**

1. Do you think the 2007 post-election violence was caused by electoral management body?

Yes or No (Tick appropriately).

2. What challenges emanated from the electoral management practices in Uasin Gishu in the 2007 post-election violence?

3. What were the similarities of electoral management practices in Uasin Gishu and Trans Nzoia counties to the 2007 post-election violence? (Tick appropriately).

1. Very closely linked 2. Average 3. Remotely linked

4. What do you think can be done to correct the challenges of electoral management practices in Uasin Gishu and Trans Nzoia in 2007 post-elections violence?

**Objective 4: Mitigating Measures in the Management of Interethnic Relations in Uasin Gishu and Trans Nzoia Counties.**

1. What measures has the government taken to prevent recurrence of the 2007 post-election violence? **(Please tick as appropriately)**

Measures	
Establishment of IEBC	
Security reforms	
Establishment of TJRC	
Resettling of Victims of the general election violence	
Compensating victims for property losses	

Prosecution of perceived perpetrators of 2007/2008 general election violence	
Establishment of the National Council of Elders	

If others, please specify

2. How would you rate the effectiveness of the measures put in place by the government to check on post-election violence?

Very effective ( ) Effective ( ) less effective ( ) Not Sure ( )

3. Apart from the government, how would you rate the role of each of the following in mitigating general election violence? **(Please tick appropriately)**

<b>Organizations</b>	<b>Very effective</b>	<b>Effective</b>	<b>Not sure</b>	<b>Ineffective</b>	<b>Very ineffective</b>
NGOS					
Religious Bodies					
Individuals					
United Nations					
African Union					
East African Community					

4. What initiatives have the victims and the locals taken to mitigate the effects of post- election violence of 2007? **(Tick appropriately)**

<b>Initiatives</b>	<b>Strongly Agree</b>	<b>Agree</b>	<b>Not sure</b>	<b>Disagree</b>	<b>Strongly disagree</b>
Resettlement of victims					



Reconciling warring parties					
Protecting property of victims					
Return of the stolen property					
Helping victims to rebuild their homes					
Sharing food					

5. What other measures in your opinion do you think should be put in place to avoid electoral management on escalation of future post-election violence?

**b) Questionnaire for Electoral Commission of Kenya-2007 General Elections**

**Please answer the following questions as truthfully and honestly as possible by Ticking (√) in the appropriate box or writing the answer in the space provided**

1. Do you think the polling stations in Uasin Gishu and Trans Nzoia were sufficient enough to conduct the 2007 general elections? **(YES) or (No)**. Support your answer:

a) How was registration of voters carried out? **Tick (√) as appropriate**

Voter Registration	Not sure	Less Effective	Effective	Very Effective
Uasin Gishu				
Trans Nzoia				

2. Was the civic education carried out in a proper manner in the two counties during the 2007 general elections? **(YES) or (No)**. Give reasons to support your answer.

3. a) What criteria were used in selecting presiding officers and polling clerks? **Tick (√) as appropriate.**

- a) Merit ( )
- b) Experience ( )
- c) Patronage ( )
- d) Ethnic ( )
- e) Not sure ( )

- f) Party Affiliation ( )
- g) If others, please specify

b) Do you think polling clerks in each polling station were enough to conduct smooth elections? **(YES) or (No). Tick (✓) as appropriate. If no, support your answer.**

5. a) Was there ballot stuffing in your polling stations? **(YES) or (No). Tick (✓) as appropriate.**

b) If any, what measures were put in place to mitigate ballot stuffing?

c) Were there any other challenges experienced by ECK official while conducting elections in UG and TZ counties?

6.a) How were results relayed to the tallying centres?

b) In your own view, which stakeholders were involved in the voting process?

**THANK YOU FOR YOUR COOPERATION**

## **APPENDIX V: INTERVIEW GUIDE FOR KEY INFORMANTS**

This research is part of a study on, “Implications of Electoral Management for Interethnic Relations: A Case of 2007 Elections in on the 2007 in Uasin Gishu and Trans Nzoia Counties, Kenya by Esther Jeptanui Arusei REG. No.DAS/60119/14 Kisii University. Iam a post-graduate student pursuing a doctorate of philosophy in political science.My collection of data is purely for academic purpose. Kindly respond to the following questions as honestly and truthfully as possible. All information provided by you will be kept strictly confidential. Thank you for your support.

### **Section A:**

#### **Interview Guide for County Commissioners**

#### **Questions**

1. What were the characteristics of electoral management practices on 2007 post-election violence?
2. What do you think were the causes of electoral management practices on 2007 post election violence?
3. What were the challenges during 2007 post election violence?
4. In your view, how effective were the measures put in place to mitigate election violence before and after 2007 elections?

## **Section B: Interview Guide for Security Enforcers**

### **Questions**

1. In your own view, what do you think were the characteristics of electoral management practices on 2007 post-election violence?
2. What do you think were the causes of electoral management practices on post-elections violence of 2007?
3. Were there any electoral disputes on 2007 post election violence?
4. What were the challenges faced by electoral management faced in the process of voting?
5. How were those electoral disputes solved if any?

## **Section C: Interview Guide for Electoral Commission of Kenya**

### **(i) Interview Guide for Returning Officers**

1. What was your role as a returning officer in your area of jurisdiction?
2. Do you think you carried out your duty according to the rules of electoral commission of Kenya?
3. What challenges did you experience during election exercise?
4. How did you manage the challenges experienced if any?

### **(ii) Interview Guide for the Presiding Officers**

5. What was your role as a presiding officer in your area of jurisdiction?
6. Do you think you carried out your duty according to the rules of electoral commission of Kenya?
7. What challenges did you experience during election exercise?
8. How did you manage the challenges experienced if any?

**(iii) Election Registration Clerks**

1. How was registration conducted in your area of jurisdiction?
2. Do you think you were given enough time to carry out registration exercise?
3. Were there any challenges experienced during registration period?
4. Do you think registration was done according to the rules and regulation of electoral process?
5. What measures do you think can be put in place to mitigate any challenges in future?

**(vi) Election Voting Clerks**

1. Was voting done according to the stipulated rules and regulation of the commission?
2. What challenges did you encounter during voting in your area of jurisdiction?
3. Were polling stations and voting clerks sufficient to run voting exercise within the given timeframe?
4. Were there any electoral disputes emerging in the course of voting?
5. If there were any electoral disputes, how did you solve them?

**(vii) Interview Guide for Counting Clerks**

1. Was counting done according to the stipulated rules and regulation of the commission?
2. What challenges did you encounter during counting in your area of jurisdiction?

3. Were counting stations and counting clerks sufficient to run counting exercise within the given timeframe?
4. Were there any electoral disputes emerging in the course of counting?
5. If there were any electoral disputes over counting exercise, how did you solve them?

**Section D: Interview Guide for Political Candidates/Aspirants (Members of Parliament/Councillors)**

1. What were the characteristics of electoral management practices on 2007 post election violence?
2. Were there any electoral malpractices during the 2007 elections?
3. What challenges did you experience during polling?
4. Were there any measures in place to curb any disputed elections?

**Section E: Interview Guide for Election Observers**

1. What were the characteristics of electoral management practices on 2007 post election violence?
2. What were the causes of electoral management practices on 2007 post election violence?
3. Did you encounter any challenges on electoral management practices during 2007 post election violence?
4. Were there any measures put in place to address any emerging challenges on elections??

## **Section F: Interview Guide for Election Agents (Individual and Parties)**

1. What were the characteristics of electoral management practices on 2007 post election violence??
2. In your own opinion, do you think the 2007 post election violence was caused by other factors apart from electoral practices?
3. Were there any challenges on on electoral management practices on 2007 post election violence?
4. How did you mitigate electoral challenges experienced during voting process?

## **Section G: Interview Guide for Non-Governmental Organizations**

1. What were the characteristics of electoral management practices on 2007 post-election violence?
2. In your view, what were the causes of electoral management practices on 2007 post election violence?
3. Were there any electoral management challenges experienced on 2007 post election violence?
4. In your view, how effective are the measures put in place by the government to mitigate electoral violence?

## **Section H: Interview Guide for Camp Administrators**

1. What were the characteristics of electoral managment practices on 2007 post-election violence?
2. In your own opinion, explain what might have caused electoral management practices on post-election violence of 2007?
3. Were there any challenges faced on 2007 post election violence?

4. How successful are the measures put in place to mitigate the challenges of the 2007 post-election violence?

### **Section I: Interview Guide Village Elders**

1. What were the characteristics of electoral management practices on 2007 post election violence?
2. What do you think contributed to post- election violence of 2007?
3. What role did you play during and after the 2007 post-election violence?
4. Comment on the effectiveness of the mechanisms put in place to mitigate election violence?

### **Section J: Interview Guide for Chiefs**

1. What were the characteristics of electoral management practices on 2007 post election violence?
2. Were there any electoral management disputes experienced during 2007 post election violence?
3. What were the challenges experienced during elections?
4. What were the measures put in place to curb any future electoral management disputes?

### **Section K: Interview Guide for Focus Group Discussion**

1. What were the characteristics of electoral management practices on 2007 post election violence?
2. Did you experience any electoral disputes experienced during voting process?
3. Were there measures put in place to curb any future electoral disputes?
4. Did you experience any challenges during election process in your area of jurisdiction?



**APPENDIX VI: OPINION POLLS FOR PRESIDENTIAL CANDIDATES IN KENYA  
ELECTIONS, 2007**

Opinion Polls	Kibaki	Musyoka	Odinga	Mudavadi	Rutto	Kenyatta
Oct.2006a	41	20	13		3	5
Dec.2006a	42	20	14		3	5
March.2007a	51	14	17	2	2	2
April.2006b	44.3	15.3	18.7	2.7	2.6	3.5
June 2007c	45	14	28	4	3	4
July.2007a	45	11	27	3	2	2
August.2007d	42	11	25	8	6	1
August.2007a	47	13	36			
Sept.2007a	38	8	47	Undecided		
Sept.30,2007g	40.2	12.4	47.4	0		
Sept.30,2007d	34	16	46	4		
Oct 6,2007g	39.6	10.8	49.6	0		
Oct 6,2007d	35	15	46	4		
Oct.13,2007a	37	8	53	2		
Oct.14,2007d	33	13	49	5		
Oct.20,2007g	35	14	51	0		
Oct.21,2007d	31	14	52.2	2.8		
Oct 23.2007a	39	8	50			
Oct 28,2007g	33	14	51	2		
Oct 28,2007d	32.2	14	50	1		
Nov 4,2007g	35	14	50	1		
Nov 11,2007g	37	13	48	2		
Nov 17,2007e	42	45	11			

Nov.17.2007g	38	13	49	2		
Nov.21.2007f	41.4	14.7	40.7			
Nov.23.2007a	43.3	11.4	43.6	0		
Nov.30.2007g	38.6	14	45.2	2.2		
Nov.30.2007g	38.4	17.5	43.2	0.9		
Dec.7.2007a	42	10	46			
Dec.7.2007g	39	17	43	1		
Dec.12.2007g	36	17	46	1		
Dec.18.2007a	43	10	45			

**Source: Oucho, 2015**

**Note:** ‘a’ represent Steadman International ; ‘ b’ International Republican Institute; Research and marketing services; ‘d’ Infotrack and Consulting and Harris Interactive Global; ‘e’Gallup; ‘f’ Consumer Insight; and ‘g’ Strategic Public Relations and Research.

## APPENDIX VII: SAMPLE SIZE DETERMINATION TABLE & FORMULA

<i>N</i>	<i>S</i>	<i>N</i>	<i>S</i>	<i>N</i>	<i>S</i>
10	10	220	140	1200	291
15	14	230	144	1300	297
20	19	240	148	1400	302
25	24	250	152	1500	306
30	28	260	155	1600	310
35	32	270	159	1700	313
40	36	280	162	1800	317
45	40	290	165	1900	320
50	44	300	169	2000	322
55	48	320	175	2200	327
60	52	340	181	2400	331
65	56	360	186	2600	335
70	59	380	191	2800	338
75	63	400	196	3000	341
80	66	420	201	3500	346
85	70	440	205	4000	351
90	73	460	210	4500	354
95	76	480	214	5000	357
100	80	500	217	6000	361
110	86	550	226	7000	364
120	92	600	234	8000	367
130	97	650	242	9000	368
140	103	700	248	10000	370
150	108	750	254	15000	375
160	113	800	260	20000	377
170	118	850	265	30000	379
180	123	900	269	40000	380
190	127	950	274	50000	381
200	132	1000	278	75000	382
210	136	1100	285	100000	384

Note.—*N* is population size. *S* is sample size.

Source: Krejcie & Morgan, 1970

## **APPENDIX VIII: CODING OF KEY INFORMANTS**

- 1. FGD, Burnt Forest shopping centre,3 August 2015**
- 2. FGD, Burnt Forest shopping centre,3 August 2015 from 2.00-400pm**
- 3. Oral Interview, Seum,11 March 2021**
- 4. Oral Interview, Kaplamai,12 March 2021**
- 5. FGD, Kachibora, 22 August 2015**
- 6. Oral Interview, Kodoo Farm,6 March 2021**
- 7. Oral Interview, Makutano,4 April 2022**
- 8. Oral Interview, Burnt Forest,11 November,2015**
- 9. Oral Interview, Olenguise,7 March 2021**
- 10. FGD, Kachibora, 23 May 2015**
- 11. FGD, Burnt Forestshopping centre,3 August 2015 2.00-4.00pm**
- 12. FGD, Kodoo Farm,20 August 2015**
- 13. FGD, Makutano,23 August 2015**
- 14. FGD, Burnt Forest shopping centre,3 August 2015**
- 15. Oral interview, Burnt Forest shopping centre,7 March 2021**
- 16. FGD, Burnt Forest shopping centre,16 August 2015**
- 17. FGD, Kachibora, 22 August 2015**
- 18. Oral interview, Langas estate Eldoret, 5 November 2015**
- 19. Oral interview, Eldoret town, 6 March 2021**
- 20. Oral interview, Kachibora, 4 November 2015**
- 21. Oral interview, Makutano, 26 November,2015**
- 22. Oral interview, Kesses,14 November 2015**
- 23. FGD, Seum, 24 August 2015**
- 24. Oral interview, Kitale town, 7 April,2021**
- 25. FGD, Kachibora,22 August 2015**
- 26. Oral interview, Naikam,14 March 2021**
- 27. Oral interview, Kachibora, 4 November 2015**
- 28. Oral interview, Motosiet centre 17 March 2021**
- 29. FGD, Burnt Forest shopping centre,16 August 2015**
- 30. Oral interview, Tarakwa primary school, 20 March 2021**
- 31. Oral interview, Suwerwo centre,14 March 2021**
- 32. Oral interview, Kenmosa Eldoret,2 November 2015**
- 33. Oral interview, Burnt Forest shopping centre,16 August 2015**
- 34. Oral interview, Burnt Forest shopping centre,7 March 2021**
- 35. FGD, Makutano, 23 August 2015**
- 36. Oral interview, Burnt Forest shopping centre,14 November 2015**
- 37. FGD, Burnt Forest shopping centre, 3 August 2015**
- 38. FGD, Burnt Forest shopping centre, 3 August 2015**
- 39. Oral interview, Burnt Forest shopping centre, 6 March 2021**
- 40. FGD, Burnt Forest shopping centre,16 August 2015**
- 41. FGD, Burnt Forest shopping centre, 3 August 2015**

42. FGD, Burnt Forest shopping centre, 3 2015
43. Oral interview, Kachibora, 4 November 2015
44. Oral interview, Kondoo farm 7 2021
45. Oral interview, Kondoo farm 7 2021
46. FGD, Burnt Forest shopping centre,16 August 2015
47. Oral interview, Burnt Forest shopping centre, 7 March 2021
48. Oral interview, Makutano, 4 November 2015
49. Oral interview, Chuiyat, 3 November 2015
50. Oral interview, Suwerwo, 4 November 2015
51. FGD, Burnt Forest shopping centre, 3 August 2015
52. Oral interview, Suwerwo,14 March 2021
53. Oral interview, Kachibora, 22 August 2015
54. Oral interview, Naikam, 23 August 2015
55. FGD, Makutano, 23 August 2015
56. FGD, Kodoo farm, 20 September 2015
57. FGD, Burnt Forest shopping centre,16 August 2015
58. FGD, Kachibora, 22 August 2015
59. Oral interview, Motosiet,17 March 2021
60. Oral interview, Bonde,7 March 2021
61. Oral interview, Kitale town, 26 November 2015
62. Oral interview, Chuiyat, 3 August 2015
63. Oral interview, Langas estate, 5 November 2015
64. FGD, Kodoo farm, 20 August 2015
65. FGD, Burnt Forest shopping centre, 3 August 2015
66. Oral interview, Burnt Forest shopping centre,3 August 2015
67. Oral interview, Kachibora, 22 August 2015
68. Oral interview, Burnt Forest shopping centre,16 August 2015
69. Oral interview, Kesses centre, 6 March 2021 3.00-4.00pm
70. FGD, Kachibora, 22 August 2015
71. FGD, Kodoo farm, 20 August 2015
72. Oral interview, Kachibora,26 November 2015
73. Oral interview, Burnt Forest shopping centre, police station,15 November 2015
74. FGD, Seum, 24 August 2015
75. Oral interview, Burnt Forest shopping centre,14 November 2015 2.00-4.00pm
76. Oral interview, Chuiyat 3 August 2015 2.00-4.000pm
77. Oral interview, Kitale town, 26 November, 2015.

**APPENDIX IX: PLATE OF A DESTROYED HOUSE**



**Photo by Arusei Esther Jeptanui ,2015**

**APPENDIX X: PLATE OF DESERTED BUSINESSES PREMISES IN BURNT FOREST**



**Photo by Arusei Esther Jeptanui, 2015**

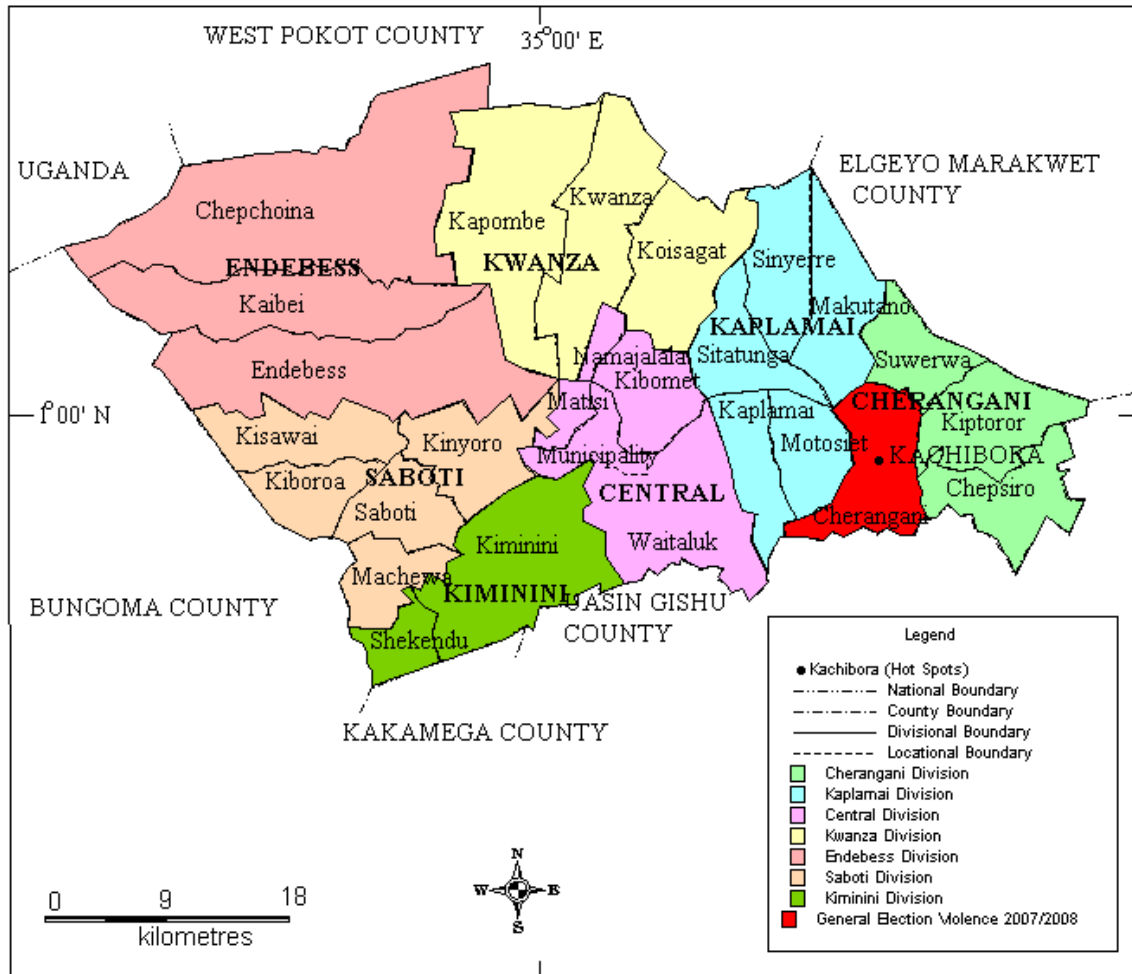
**APPENDIX XI: MAPS SHOWING THE STUDY AREA**



**Figure 3.1: Map of Uasin Gishu County showing Burnt Forest hot spot during General Election Violence 2007/2008**

*Source: Moi University Geography Department GIS Lab (2015)*





**Figure 3.2: Map of Trans-Nzoia County showing Kachibora hot spot during General Election Violence of 2007 /2008**

*Source: Moi University Geography Department GIS Lab (2015)*

**APPENDIX XII: MAP OF KENYA SHOWING POST ELECTION VIOLENCE HOT SPOTS**



**Source:** Nation Media Group, DEPHA and other Public Media.

## APPENDIX XIII: PUBLICATION

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**African Journal of Political Science and  
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*Full Length Research Paper*

# The impediments of electoral management in the 2007 general election on interethnic relations in Uasin Gishu and Trans Nzoia counties

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Interethnic violence has significantly impacted the social and political dynamics among communities residing in the cosmopolitan counties of Trans Nzoia and Uasin Gishu, during the recurring electioneering period every five years. The study's main purpose was to examine the impediments of electoral management in the 2007 General Election on interethnic relations in Uasin Gishu and Trans Nzoia Counties. The theory of conflict guided the study. The sample size was 363 participants: election victims, former ECK officials, political aspirants, local observers, elections agents, county commissioners, chiefs, security enforcers, village elders, NGOs, and camp administrators. A purposive sampling technique selected the sample size that provided study information. A descriptive survey research design and mixed method approach was used. The data was collected using interviews, questionnaires, and Focus Group Discussions. Quantitative data from closed-ended questions were tabulated using descriptive statistics. Thematic analysis was used to process data collected through interviews, focus group discussions, and open-ended questions for interpretation. The findings of the study showed the impediments included suspicion among residents, tribalism (13.1%), failure of EMB officials to manage results (13.0%), inadequate polling stations (4.3%), lack of trust in police enforcers (4.3%), late opening of polling stations (4.3%), poor coordination (4.3%), harassment, lack of trust by polling officials (8.8%) and late announcement of results (13.0%). The study recommended that to prevent and manage the causes and consequences of violence, a policy for electoral violence management, especially monitoring and voter-centered strategies, needs to be carried out on a long-term basis and continuity between general elections.

**Key words:** Impediments, electoral management, interethnic relations.

## INTRODUCTION

For a long time, general elections have been a cornerstone of every democracy globally. Elections must

be held regularly in accordance with international and regional agreements. Democracy, as defined by the

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## APPENDIX XIV: PLAGIARISM REPORT

### IMPLICATIONS OF ELECTORAL MANAGEMENT PRACTICES ON INTERETHNIC RELATIONS: A CASE OF 2007 GENERAL ELECTIONS IN UASIN GISHU AND TRANS-NZOIA COUNTIES, KENYA

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