



NEAR EAST UNIVERSITY
GRADUATE SCHOOL OF SOCIAL SCIENCES
POLITICAL SCIENCE PROGRAM

PRESIDENTIALISM AND DEMOCRACY IN KENYA.

BRIAN NAMAYI OMBAYO

MASTER'S THESIS

NICOSIA

2018

NEAR EAST UNIVERSITY
GRADUATE SCHOOL OF SOCIAL SCIENCES
POLITICAL SCIENCE PROGRAM

PRESIDENTIALISM AND DEMOCRACY IN KENYA.

BRIAN NAMAYI OMBAYO
20155411

MASTER'S THESIS

THESIS SUPERVISOR
ASSOCIATE PROFESSOR. DR. DIRENC KANOL

NICOSIA
2018

ACCEPTANCE/APPROVAL

We as the jury members certify the “PRESIDENTIALISM AND DEMOCRACY

IN KENYA” prepared by BRIAN NAMAYI, OMBAYO defended on

22/06/2018

Has been found satisfactory for the award of degree of
Master

JURY MEMBERS

ASSOC. PROF. DR. DIRENC KANOL (Supervisor)
Near East University/Political Science Department

ZEHRA AZIZBEYLI
Near East University/Department

SEVKI KIRALP
Near East University/Department

PROF. DR. MUSTAFA SAGSAN
Graduate School of Social Sciences
Director

DECLARATION

I BRIAN NAMAYI OMBAYO, hereby declare that this dissertation titled “PRESIDENTIALISM AND DEMOCRACY IN KENYA” has been prepared by myself under the guidance and supervision of “ASSOC. PROF. DR. DIRENC KANOL” in partial fulfilment of The Near East University, Graduate School of Social Sciences regulations and does not to the best of my knowledge breach any Law of Copyrights and has been tested for plagiarism and a copy of the result can be found in the Thesis.

- The full extent of my Thesis can be accessible from anywhere.
- My Thesis can only be accessible from the Near East University.
- My Thesis cannot be accessible for (2) two years. If I do not apply for extension at the end of this period, the full extent of my Thesis will be accessible from anywhere.

Date

Signature

Name, Surname

DEDICATION

I dedicate this research to my father, Mr. Alex Ombayo Mutuli for his relentless support, concern and prayers throughout my study period.

ACKNOWLEDGEMENTS

Thanks to the Almighty God for granting me good health and enabling me to conduct my research despite all the challenges I faced.

I would like to convey my deepest gratitude to my Supervisor, Assoc. Prof. Dr. Direnc Kanol, who has been patient and available throughout my thesis writing period. His guidance has been exemplary. God bless you Sir. I will forever remain indebted to you.

My regards to the Near East University for granting me this amazing opportunity. It has been a worthy adventure. Special appreciation goes to Dr. Nur Koprulu, the Political Science department head for the wise counsel offered during my study period. I appreciate and acknowledge all the contributions and support advanced to me by the Graduate School of Social Sciences at Near East University.

I would like to thank my father for the financial sacrifices he had to make to see me through this study period. Special gratitude goes to my entire family for their moral support and encouragements during my stay in Cyprus.

I also wish to thank my fiancée, Mariam Tumaini, for her patience, love and prayers during my study period. Lastly, I extend my gratitude to my classmates and all the lecturers who taught both Political Science and International Relations courses at Near East University. Keep up the good work.

ABSTRACT

PRESIDENTIALISM AND DEMOCRACY IN KENYA

This research looks into the presidential system, its weaknesses, compares it to parliamentarism and semi-presidentialism then assesses the influence these systems have on democracy. According to Freedom house, independent countries that were continuously democratic between 1972 and 1994 were practicing parliamentarism. They included; United Kingdom, Israel, Canada, Japan, Netherlands, Australia, Belgium, Germany, Norway etc. in the world today, these are stable democracies with strong economies. On the other hand, USA, Cyprus and Costa Rica were the notable stable democracies at that time practicing presidentialism.

Juan Linz's criticisms of presidentialism will form the basis of this discussion. In this study, presidentialism will be analysed in order to determine why it's regarded as problematic, however, it doesn't mean that a parliamentary or semi-presidential system is the solution to all the inefficiencies in presidentialism. Application and implementation of a system seem to be what matters the most in pursuit of a stable democracy.

Key Words; Presidentialism, Semi-Presidentialism, Parliamentarism, Problematic, Democracy.

ÖZ

KENYA'DA BAŞKANLIK VE DEMOKRASİ

Bu araştırma, başkanlık sistemine zayıflıklarıyla bakmakta, parlamentarizm ve yarı başkanlık ile karşılaştırılmakta, daha sonra bu sistemlerin demokrasi üzerindeki etkisini değerlendirmektedir. Freedom House'a göre, 1972-1994 yılları arasında sürekli demokratik olan bağımsız ülkeler parlamentarizm uyguluyorlardı. Onlar dahil; bugün dünyada İngiltere, İsrail, Kanada, Japonya, Hollanda, Avustralya, Belçika, Almanya, Norveç, güçlü ekonomilere sahip istikrarlı demokrasilerdir. Öte yandan, ABD, Kıbrıs ve Kosta Rika, o dönemde Başkanlığın uyguladığı önemli istikrarlı demokrasilerdi.

Juan Linz'in başkanlığa yönelik eleştirileri bu tartışmanın temelini oluşturacaktır. Bu çalışmada, başkanlığın neden sorunlu olduğunu değerlendirmek için analiz edilecek, bununla birlikte, parlamenter veya yarı başkanlık sisteminin başkanlıktaki tüm verimsizliklerin çözümü olduğu anlamına gelmemektedir. Bir sistemin uygulanması ve yerine getirilmesi, istikrarlı bir demokrasinin peşinde olduğu en önemli olan şey gibi görünmektedir.

Anahtar Kelimeler: Başkanlık, Yarı Başkanlık, Parlamenterizm, Sorunsal, Demokrasi.

ABBREVIATIONS

KANU - Kenya African National Union
MYWO – Maendeleo Ya Wanawake Organization
GEMA – Gikuyu Embu Meru Association
UNSU – University of Nairobi Staff Union
FORD – Forum for Restoration of Democracy
KBC – Kenya Broadcasting Corporation
ICT – Information Communications Technology
ECK – Electoral Commission of Kenya
NASA- National Super Alliance
KTN – Kenya Television Network
NCEC – National Convention Executive Committee
CBK – Central Bank of Kenya
ADC – Agricultural Development Corporation
KCB – Kenya Commercial Bank

TABLE OF CONTENTS

ABSTRACT	iii
ÖZ.....	iv
INTRODUCTION.....	1
1. CHAPTER; LITERATURE REVIEW.....	7
1.1 Dual Legitimacy	10
1.2 Fixed Term of office.....	13
1.3 Winner-take-all.....	15
1.4 Sole Elected Representative of a Nation	17
2. CHAPTER: METHODOLOGY.....	19
3. CHAPTER: CASE OF KENYA	26
3.1 Democratic Experiment.....	26
3.2 Fixed Term of Office/Rigidity.	30
3.3 Winner Take All.....	32
3.4 Sole Representative of a Nation.	35
3.5 Dual Legitimacy.	40
4. CHAPTER: CONCLUSION.....	43
REFERENCES	46

INTRODUCTION

This chapter introduces three systems of governance, namely; Presidentialism, Semi-Presidentialism, and Parliamentarism, which will form the backbone of this thesis. It also defines those systems in relation to democracy. Analyses will be made to determine which one is viable and why many developed countries in the world that have been democratic for a long time practice parliamentarism and not presidentialism or semi-presidentialism.

The Objective of this research is to determine if the presidential system is problematic for Kenya. The choice of Kenya as the research case is formed by the fact that I am a Kenyan citizen and therefore familiar with the political landscape of the country. In this thesis, I argue that presidentialism is problematic for Kenya. The findings that I present in the next chapters will seek to justify my argument. In this study, I used Historical Case Study method in collecting information. Single case technique was used in order to get extensive understanding of the case under examination.

Juan Linz can be credited to be one of the most important contributors to the understanding of democracy and systems of governance especially presidentialism. Based on his essay, “perils of presidentialism,” and works of other renown political science scholars like Robert Elgie, Mathew Shugart and Scott Mainwaring, this study seeks to get an understanding of the differences among presidentialism, semi-presidentialism, and parliamentarism and their influence on democracy.

The United States of America is arguably the oldest and most stable presidential democracy in the world. The US government can also be said to derive its legitimacy from the fact that it has been in existence for a very long time (Cheibub, 2010). The presidential system is characterized by a constitutional structure where both the legislature and executive derive their democratic legitimacy from the popular vote by the people. In this system however, power rests in the executive branch. Legitimacy of the president is acquired through popular vote by the people while parliamentarism, on the other hand, is a system where the executive derives its legitimacy from its ability to command confidence of the parliament. The executive is also accountable to parliament. In this

case, the executive can be recalled by parliament when and if confidence in its ability to discharge its mandate is lost (Cheibub, 2006).

Both parliamentary and presidential systems are said to be systems of governance and they both contain a variety of less important but fundamental features intertwined (Albert, 2009).

According to Moe and Caldwell (1994), these two systems come with different kinds of baggage. Basically, they can be referred to as package deals.

Semi-presidentialism is a scenario where there is a president as the head of state and a prime minister as the head of government. However, the president, as head of state, is elected by the people therefore derives his legitimacy from the popular vote. The prime minister on the other hand derives his legitimacy from the confidence of the legislature and can therefore be dismissed in case the legislators lose confidence in him. Both the cabinet and the prime minister are answerable to the legislature. The members of national assembly in semi-presidentialism are also directly elected by the people therefore deriving their legitimacy from popular vote (Duverger, 1980).

Linz (1990), made several observations that exhibited weaknesses of presidentialism and argued that few stable democracies that have been in existence for a long time practice this system. In his research, he came up with the following issues that reflected the problematic nature of the presidential system;

- 1) The fixed term of office which makes it difficult for a president to be removed from office when he loses the confidence of the legislature and the people. Though proponents of the system argue that this feature has a possibility of ensuring stability within a state instead of removing presidents, like Prime Ministers, every time there is a misunderstanding.

- 2) The dual democratic legitimacy of the national assembly and the executive which can lead to a strife when they hold different views on certain policy areas/issues. This aspect, however, can be good for a country especially when parliament steps in to deter the president from being dictatorial.

- 3) Presidentialism is problematic due to the fact that it operates according to the “winner-take- all” mentality which he argued that makes democratic politics a zero sum game that

can lead to conflict. This zero-sum game polarizes the presidential election environment and stalks tension within a nation.

4) The President's knowledge of being the sole representative of a whole nation as a single constituency and being the custodian of a lot of constitutional powers may lead to intolerance to the opposition (Mainwaring and Shugart, 1993). Proponents of this system claim that the aspect of the president being the sole representative of a nation as a single constituency, vested with a lot of powers, helps in quick decision making rather than having to go through the assembly for endorsement of important and urgent matters.

Linz, in his article titled, "virtues of parliamentarism," (1990), states that the parliamentary system is not ipso facto more likely to ensure democratic stability than any presidential system, and that not all presidential regimes are unstable, nor are all of them weak. He doesn't rule out the possibility of a stable and strong presidential system, especially, if the president enjoys both the legislative and electoral majority support. Linz's article assessed the effect of different institutional arrangements in relation to democratic consolidation. He went further to state that parliamentarism doesn't guarantee better policy decisions than presidential regimes.

In the article, Linz recognizes Horowitz's observation that Westminster style parliamentary governments with two party systems, with plurality elections in single member districts, may also have the majoritarian winner-take-all feature similar to the one in presidential governments. In case a single disciplined party in a parliamentary government wins absolute majority seats, then the likely outcome is closer to "winner-take-all" aspect.

In order to forestall zero-sum outcomes in highly polarized societies, like Belgium, Linz argues that a multiparty system with proportional representation can be embraced to allow formation of alternative coalitions.

In parliamentarism, Linz notes, in case the Prime Minister loses support or credibility but the parliamentary majority remains intact in parliament, the prime minister can resign instead of waiting for a coup to remove him from office like the Spanish premier Adolfo Suarez in 1981.

Winner-take-all can lead to weak presidents or even weak presidency in general. On the other side, If the popular support of legislators for a sitting president wanes as next elections approaches, then the “all” that the winner takes may not constitute that much effective power. Presidents that come to power after populist campaigns often realize that the power they get is not sufficient to deliver all the promises they might have made to the electorate. This aspect leads to a constant attempt by the president to obtain new and more powers or invoke emergency authority.

Africa’s post-colonial history points out weakly rooted democratic institutions as the ones that have been a failure and not the parliamentary system of governance. Emergence of authoritarian regimes in Africa in states like Uganda, Ghana, and Senegal coincided with constitutional change from parliamentary to presidential system with concentration of power in the presidency and marked the reduction of legislative authority.

As mentioned above, focus will be on Kenya as my study area because I am a Kenyan citizen and I am familiar with its political landscape. Notable examples of events that have happened in Kenya since independence will be brought to the fore to support my argument of presidentialism being problematic.

On 12th December 1964, Kenya became a Republic. In an attempt to reflect inclusivity of the ethnic groups in Kenya in his government, President Jomo Kenyatta, the first president of independent Kenya, carefully selected his cabinet from each ethnic community. However, this was short lived as cracks started to emerge due to accusations of power being centralized and controlled by a few individuals from the president’s ethnic community. Kenyatta would later sack his Vice President, Mr. Oginga Odinga from the Luo ethnic group and declare that any opposition to his leadership would be crushed (Harold. D, 1983). Mr. Kenyatta is on record threatening legislators who criticized his government and style of leadership of dire consequences, as detailed in the New York Times article of October 17, 1985. His regime became notorious for detention without trial, assassinations, and human rights violations. Threatening legislators yet they were also elected in by the people through popular vote showed a weakness in the presidential

system that needed to be addressed for democracy to be realized. Mr. Kenyatta's regime set off a wrong precedence for the nation moving forward.

Daniel Toroitich Arap Moi took over the country's presidency after the death of Mr. Kenyatta in 1978. His regime was marred by electoral malpractices, human rights violations, forcible disappearance of political opponents and incarceration of dissenting voices, political assassinations, and curtailing of media freedoms. He would later leave power in 2002 after twenty four years (Oyugi, 2002). Actions of the second president confirms Svolik's (2012) argument that the biggest threat to presidentialism is a sole elected representative of a nation as a single constituency can make one a president personalize power and be intolerant to critics and the opposition which is problematic for democracy. In Uganda, for example, the only opponent, Dr. Kizza Besigye, to President Museveni was harassed, tear gassed, his home broken into, and even incarcerated in order to bar him from contesting in the presidential elections in 2016.

Mr. Mwai Kibaki, upon winning the 2002 presidential elections in which Mr. Moi did not participate due to constitutional changes, took over a system that was riddled by corruption and ethnicity. His presidency took off well with the promise of economic recovery, fight against corruption and ethnicity. His presidency went into history books as having led to the worst post-election violence in independence Kenya where hundreds of people were killed and thousands displaced from their homes (Standard Digital, 2018).

Uhuru Kenyatta, the sitting president and son to the first president of Kenya took over power in 2013 and was controversially re-elected in 2017 for his second term in a repeat presidential election which was boycotted by the main opposition candidate Mr. Raila Odinga, a son to the first Vice President Mr. Jaramogi Oginga Odinga, after the High Court had earlier nullified the initial elections due to illegalities and irregularities that were allegedly committed by the electoral commission (Aljazeera, 2018).

At independence, Kenya adopted presidentialism and has practiced it to date. Kenya can be said to be one of the few countries that have been able to conduct regular and timely elections on the African continent.

Considering the issues raised by Juan Linz (1990) and the traits that have characterized the regimes that have been in power in Kenya since independence as detailed above, I ask, is presidentialism problematic for Kenya? Data in chapters ahead will seek to provide answers to this question and establish if it's indeed problematic and why.

The 2010 promulgation of a new constitution in Kenya ended a more than 20 year constitutional reform process that was catalyzed by the need to address, among other things, political assassinations, human rights violations, intolerance to the opposition and criticism, electoral malpractices, and marginalization. 2007/8 post-election violence that left thousands of Kenyans dead and many displaced made the political class realize that it was important to change the constitution or else future elections would be worse and lead Kenya to a state of anarchy. The new constitution empowered the separation powers principle where the legislators had to vet ministers, discuss and approve budget etc. The appointment of Chief Justice was also made to be a competitive process conducted by the Judicial Service Commission rather than direct presidential appointments (Mutua, 2008).

1. CHAPTER; LITERATURE REVIEW

This chapter focuses on democracy, democratic political institutions, and Juan Linz's (1990) critical analysis of presidentialism as brought out in the previous chapter. A comparison is also done to ascertain if the ills bedeviling the presidential system also affect other systems and if not, the safeguards in place that makes other systems better than presidentialism are looked into. This chapter's analysis will mainly focus on presidentialism, semi-presidentialism and parliamentary systems.

In 1861, John Stuart Mill wrote, "It is evident that the only government which can fully satisfy all the exigencies of the social state is one in which the whole people participate; that any participation, even in the smallest public function, is useful; that the participation should everywhere be as great as the general degree of improvement of the community will allow; and that nothing less can be ultimately desirable than the admission of all to share in the sovereign power of the state. But since all cannot, in a community exceeding a single small town, participate personally in any but some very minor portions of the public business, it follows that the ideal perfect form of government must be representative."

Robert Dahl (2005), defines democracy as a rule by the people and goes further to add that democracy does not only involve people's right to participate in governance, but also holding and exercising power in all aspects of public life.

Dahl identified six political institutions that are critical for a modern representative democracy. The first one was elected officials. These officials are subjected to an electoral process before gaining the mandate to represent the people/their constituents in dictating public policy. A clarification as to why modern democratic governments are referred to as representative.

The second institution was free, fair and frequent elections. This institution entailed candidates being subjected to a competitive electoral process with rules equally applying to every candidate without favor or victimization. The exercise of elections was to be as frequent as possible so as to ensure citizens' participation in governance.

The third one was freedom of expression by the citizens. Citizens allowed to express themselves in relation to political matters without fear of repression or punishment. This expression includes criticizing the government, its officials, policies and ideologies.

The fourth institution as identified by Dahl was access to alternative sources of information. Here, the citizens are free to seek information elsewhere other than the government controlled sources. These sources may include other people, magazines, newspapers, international news channels, experts on specific areas of interest etc.

Associational Autonomy was the fifth institution that Dahl identified as important for a modern representative democracy. This institution allows citizens to form organizations, interest groups, and even political parties in order to achieve and strengthen various democratic rights.

The sixth institution was inclusive citizenship. Under this institution, the law applies to every citizen and everyone must feel as part and parcel of the large citizenry. Rights should not be extended to some and denied to others. These rights include the right to vote, freely express oneself, form or be part of an association or political party etc. these rights cannot be given to others and denied to some based on their political, social or economic belief.

These institutions, according to Dahl, do not just arrive at once. They take time and their arrival sequence vary from one nation to another. In Great Britain, for example, elections of members of the legislature arrived in the 13th century while in the United States, elections arrived in the 17th and 18th century. These elections were followed by step by step opening of freedom of expression for the citizens on matters politics. Right to form or join political associations soon followed. Before this right was embraced, partisan organizations and political factions were deemed dangerous and a threat to national security and stability. These associations used to operate like clandestine groups behind the radar until when they emerged from the shadows and manifested themselves to the public. These factions later metamorphosed into political parties.

In Britain, for example, those who were outside government were fiercely opposed to those in it. The outsiders were later referred to as His/Her Majesty's official opposition. In the late 19th century, the United States' Vice President, Thomas Jefferson, and House of Representatives' leader, James Madison, organized their followers in order to oppose the President's policies. In order to succeed in their opposition, they realized that they not only needed to oppose but also to replace those in power, and in order to achieve that, they needed to win an election to legitimize their mandate. Winning an election therefore would only be successful if they organized their supporters country wide. In order to organize these supporters, they needed an identity to distinguish themselves from their opponents. This identity, therefore, came in form of a political party. Jefferson and Madison together with their sympathizers and believers in their ideologies formed a political party that was organized from the largest to the smallest voting municipality. This helped in strengthening party identity and loyalty by members. They christened their party as "the Republican Party," soon after, they renamed it Democratic Republican, then later Democratic Party. The party became the very first popularly based electoral party in the world therefore becoming a critical political institution in modern democracy.

In order for a party to mobilize and organize supporters in preparation for national elections, the Madison and Jefferson's party had to burst beyond the legislative precincts to get the national outlook and be able to replace those they were opposed to through acceptable democratic means. By 1830s, the first five political institutions, as discussed above, had already come into practice in the United States of America. In the American democratic growth, the political institutions did not just arrive all at once but gradually. Inclusive citizenship was the last arrival.

Courtesy of these developments, Alexis de Tocquville, a French aristocrat referred to the United States as a Democracy during his visit in the 1830s. A century later, after Tocquville's visit, more than a dozen countries had embraced the first five basic democratic political institutions leading to a conclusion by observers in Europe and the United States that for any country to progressive and civilized, it must adopt a democratic governance system.

The United States of America has for a long time been used as the perfect example of a successful presidential system in the world. However, with the recent events where important institutions, like the Federal Bureau of Investigations, that have been in existence for a long time and have defined the governance success of the system have come under serious criticism by the president have led to questions being raised by both the US citizens and scholars of political science at large. The frequent government shutdowns as a result of a deadlock due to disagreements between the presidency and the congress have brought Linz's observations of dual legitimacy into perspective.

Mainwaring and Shugart (1993), noted in their article, "Juan Linz, presidentialism, and democracy, a critical appraisal," that only four regimes out of 31 that had continuously been democratic since 1967 practiced presidentialism. Costa Rica, Colombia, USA and Venezuela were those notable countries. Twenty four of the 31 were parliamentary democracies. Semi- presidential system had two countries while hybrid system only had one.

Mainwaring and Shugart (1993, p.6), counted at least fifty cases of democracy breakdowns since 1945. The highest number, twenty seven, was of presidential system while nineteen were parliamentary governments. In relation to democratic governance, the success rate of presidential systems was much lower than that of parliamentary ones. Presidential systems had 22.6% success rate while Parliamentary system had 58.1%.

Based on the data above, presidential systems are highly likely to break down as compared to parliamentary systems. Many developed nations in the world that have been continuously democratic for a long time practice parliamentarism. Juan Linz criticized the presidential system as having the following weaknesses;

1.1 Dual Legitimacy

Juan Linz (1990), argues that the presidential system's dual legitimacy trait is problematic and makes the system susceptible to deadlocks between the legislative arm and the executive especially in a scenario where the president's party does not enjoy majority

seats in the assembly. The two organs derive their legitimacies from the popular vote and in times of crises, it is not clearly defined how the crisis at hand can be solved, and who speaks on behalf of the people. Shugart (2005), notes that, disgruntled with such kind of deadlocks the president is likely to resort to reforming the constitution by the power of decree laws in order to circumvent the assembly so as to get his policies implemented thus accomplishing an end that he had intended. Mathew Shugart and Scott Mainwaring (1993), contradicted Linz by arguing that this feature can be used positively in scenarios where the president has dictatorial tendencies. They justified their position by elaborating that the legislators can use the, "checks and balances," duty assigned to the assembly under the separation of powers principle as embedded in presidential constitutions to ensure that the head of state is accountable and represents the will of the people and not his own.

Pereira and Melo (2012), observed that dual legitimacy can make the executive try to usurp some powers from the legislature. They noted that in many presidential regimes in Latin America, for example Colombia, heads of states were to a large extent responsible for policy and legislation leaving the congress with the duty of just overseeing the executive. This, they claimed, made the presidential presidents possess virtual dictatorial powers. As compared to parliamentarism, the prime minister is likely to delegate the legislative function to the legislature in order to remain in power knowing clearly that his continued stay in power is largely dependent on the confidence of parliament.

The United States of America's 2 party system, for example, has been able to avoid such deadlocks due to the fact that it is very unlikely to have ideological polarization with only two parties. In multiparty presidential democracies, the chances of deadlocks occurring are high because it is unlikely for one single party to control the majority in an assembly with a highly fragmented party system. This multiparty scenario is likely to breed minority governments making them susceptible to deadlocks. Two party systems on the other hand, increases the chances of a head of state having a majority in the assembly thus avoiding frequent deadlocks (Pereira and Melo, 2012).

Mainwaring and Shugart (1993), went further to claim that as much as this dual legitimacy and deadlocks trait is more pronounced in the presidential system, it also exists in

parliamentarism where the lower and upper houses in a bicameral system, like that of the United Kingdom, might get into conflict if they do not hold the same position on one issue. In such a scenario, they added, the deadlock might be more problematic in parliamentarism than in presidentialism. When both the lower and upper houses in parliamentarism are controlled by different majorities of different parties and they hold the confidence power over the cabinet, the likely outcome would be a negotiated coalition cabinet in order to avoid an impasse. But if the two are controlled by majorities from extreme political parties with sharp ideological differences, then a deadlock would most likely ensue.

Another source of legitimacy conflict in parliamentarism is the function of head of state/the prime minister who is elected by the assembly and accorded considerable amount power, for example, veto over parliamentary legislations, appointments, and discretion to dissolve parliament. Mainwaring and Shugart argues that with such powers, the executive might tend to misuse them attracting a possible conflict with legislators.

Shugart (2005), notes that semi-presidentialism does not provide remedy to this deadlock either. He observes that the fact that there are two centers of executive power is problematic in itself especially in a scenario where the president and the prime minister come from different political parties. In this case, if the prime minister, who derives his legitimacy from the confidence of legislators, and the president, who is democratically elected by the people and therefore derives his legitimacy from the popular vote, hold different positions on the same policy issue, then a deadlock will definitely ensue. The second possible deadlock is between the president, who is elected by the people, and the legislators who are also elected by the people. This is a similarity with the one in the presidential system. So semi-presidential system has two possible dual legitimacy conflicts making it more complicated. But if the president's party enjoys the majority seats in the assembly and he has a hand in the appointment or nomination of the prime minister, then the working relationship between the two executives is likely to be cordial as well as that between the executives and the legislature.

From this analysis, the problem of dual legitimacy and deadlock does not only occur in presidential system but in the other two as well. However, the manner in which such

deadlocks can be solved is not clear. Though it can at times, in the case of presidentialism, result to temptation of a coup by the military which can be tragic resulting in loss of lives, destruction of property and injuries to people. If this conflict between the assembly and the executive in presidentialism prolongs and is not addressed quickly, stalling political, social, and economic progress of a nation, then this will confirm my argument of presidentialism being problematic as a result of dual legitimacy. It will also provide an affirmative answer to the research question.

Svolik (2012), argues that as much as deadlocks as a result of dual legitimacies is a problem, as claimed by Linz, the real threat facing presidentialism is personalization of power, and weakening of democratic institutions that define governance of a country. The incumbents tend to wrestle power from institutions that created an enabling environment for them to rise to power.

Svolik goes ahead to claim that dictators in presidential regimes create or compromise political institutions to enable them have a firm grip on power by making these institutions cede power to the executive. After gaining more power, fearing mass uprising, the dictators often resort to repression as a means to political longevity.

Parliamentarism is not exempted from this scenario of personalization and weakening of democratic institutions since a prime minister that has majority members in parliament who are loyal to him and to the party might also be tempted to overlook their role and cede ground to the executive. Semi-presidentialism would even be more complicated because 2 centers of executive power controlled by one individual, coupled with a submissive legislature controlled by the president's party would only create a more powerful head state whose checks and balances duty of the legislature would not be a worry to him.

1.2 Fixed Term of office

Linz (1990), makes a second argument that presidentialism's fixed term of office trait is problematic because it makes the system rigid and unable to adopt to the dynamism of the political world. Shugart and Mainwaring (1993), agreed with Linz's argument that the fixed term is indeed problematic, however, they also claimed that this feature can be positive in a way that it ensures that there is stability in a presidential regime, and added

that a frequent change of heads of state might bring instability and uncertainty. For example, certain policy areas take time to materialize, so changing heads of states because of some delays might not really help the system. They also argued that the fixed term limits in presidentialism is good for democracy unlike in parliamentarism where a prime minister can serve as long as he has the confidence of parliament and his party continues winning majority seats in the assembly thus elongating the duration a prime minister can stay in power. Linz went ahead to say that unlike in parliamentarism where a prime minister can leave office and succession will be smooth, rigidity in presidentialism makes it difficult for a smooth transition.

If a vacancy arises in the position of the president, maybe as a result of death, then the automatic successor becomes his deputy who in most presidential constitutions is not elected, appointed or nominated by the electorate but rather a personal choice or appointee of the president. This creates room for someone who would otherwise if subjected to a popular vote in an election would not make it to the chief executive's position.

Mainwaring and Shugart (1993), also claimed that the presidential constitutions makes it difficult to re-elect a good president whose term has expired even if he has performed commendably well in improving and sustaining a stable economy, improved the living standards of the people, improved security, and enhanced human rights and freedoms. On the other hand, there are no provisions of replacing a president who has lost popularity or confidence of the people. This makes the people endure an unwarranted tough term of office of the president. They suggested that an escape route from this trouble would be to shorten the duration of the presidential terms so that even if a president drastically loses popularity, the electorate would be aware that his term is not long away from expiry and that they would soon get a chance to elect a president of their choice.

The parliamentary system of governance provides an avenue for changing the executive where if the government is constituted by a coalition of parties, one member party can decide to withdraw its support for the prime minister or government warranting a change of the executive. In the Semi-Presidential system, there are two executives and the only one that can be easily removed is the prime minister who functions at the mercy of the

assembly. It's difficult to remove a democratically elected president. The president enjoys the fixed term just like his counterpart in the presidential system. So the rigidity issue exists in both presidential and semi – presidential systems.

In relation to the rigidity aspect as a result of fixed term of office, I argue that the presidential system is problematic because if a president has performed really well during his terms and has served the maximum time stipulated by the constitution, he does not stand a chance of being re-elected because he is constitutionally barred. On the other hand, if a president has lost his popularity may be as a result of unpopular laws, there are no provisions for his removal without creating a power vacuum so the electorate or the citizenry has to wait until the expiry of the president's term which might lead to further destruction if his policies are detrimental to the economy or to the rights and freedoms of the citizens.

1.3 Winner-take-all

The third trait of presidentialism as brought out by Linz (1990), is the “winner-take-all” aspect. He argues that this makes politics a zero-sum game that has potential to lead to conflict. This is so because competing individuals in presidential elections are fully aware that should they lose the election, they would be in the cold for the length of the presidential term and there are no constitutional provisions in presidentialism that compels the president to reach out to his competitors who lost the election to him and offer them positions in government. Rod Hague (2016), notes that this trait makes a society be so polarized especially if the competing candidates and parties are sharply divided. An election that seeks to change the occupant of the presidency or extend his term in presidentialism often attract huge voter turn-out. These voters come out with the intention to either vote-in one of their own and replace the incumbent or help the incumbent retain his position so that they can continue to get favors, some real, others illusionary. Their supporters tend to rally behind them and castigate each other as enemies. He adds that if this situation is not addressed by putting in place an electoral system that will conduct free and fair election and announce credible results, the outcome might be catastrophic and may plunge a country into chaos. For example, Kenya's 2007/8

post-election violence that left thousands dead, and 2010/11 Ivory Coast post-election violence.

Linz (1990), goes ahead to say that when a candidate wins the presidential election, he is constitutionally mandated to form the government. He does so by appointing cabinet secretaries or ministers that work directly under him and at his mercy. He can use this opportunity to award his allies these positions irrespective of their qualifications. Shugart and Mainwaring (1993), disagrees with Linz's claim and states that in presidentialism, there is a likelihood of formation of an inclusive cabinet because in multiparty systems, it's unlikely for one party to win an election on its own, therefore, parties come together to form alliances by agreeing on how to share positions once they win the elections. In such a scenario, should the alliance's candidate win, he will most likely honor the pre-election agreement of the alliance and reward the member parties with cabinet positions. This then disqualifies Linz's argument of winner take all.

Shugart and Mainwaring (1993), goes further to suggest that in fact, a parliamentary system coupled with disciplined political parties has a more prominent "winner-take-all" possibility than presidentialism. They argue that in a parliamentary system where the prime minister's party enjoys the majority seats in both upper and lower houses of the bicameral system, he is likely to not consider other parties in appointments to various positions as much as the appointees must get parliamentary approval. In this case, the prime minister will most likely appoint members who are from his party or associates of his party instead of those from other parties. Shugart and Mainwaring added that disciplined political parties in a parliamentary system of government offers little to no checks and balances as compared to those in the presidential set-up. They used the Great Britain example where one party had continuously won majority seats for two decades in the 1980s and 90s therefore dominating government affairs for that long while locking out other political parties. The majority party in parliamentary system can even invoke the dissolution power in order to extend its mandate for another term by calling for a fresh election.

For the semi-presidential system, when it comes to the "winner-take-all" issue, it may be even be a bigger problem especially when the democratically elected president's party

has majority seats in the assembly, and is allowed to nominate a prime ministerial candidate subject to approval by the assembly. If this happens, and the president's choice of prime minister is approved, then the winner take all aspect will be more pronounced in the semi presidential system. The president will have an upper hand in having all his decisions and appointments not objected to by the house. This becomes even more problematic when there is political party loyalty by legislators because, in this case, they can be used as a rubber stamp to presidential appointments and decisions (Bahro, 1995).

1.4 Sole Elected Representative of a Nation

The fourth argument that the president being fully aware that he is the sole representative or elected leader by the majority of citizens of a nation as a single constituency can tend to be intolerant to the opposition or dissent is backed by Svolik (2012), who added that the president can even go further and conspire to marginalize perceived opposition strongholds due to the fact that people from those areas exercised their democratic right by voting for the candidate of their choice. He goes further to suggest that presidents are prone to not drawing the line between serving partisan interests and those of the state.

Svolik also notes that, in fear of mass uprising over his conduct, a president is likely to resort to oppression, muzzling the media and constricting the freedom of speech and expression. This helps them to get a firm grip on power through-out his term. According to Van de Walle (1994), Presidents, especially on the African continent, organize and run governments like an extension of their households. Their rule over their respective nations is arbitrary and personal with less regard to the law. This can be noted in the appointment of public servants and officers and the way they address issues touching on his presidential appointees and political allies. In Uganda for example, the president promoted his son to the rank of Military General to the dismay of other officers who had been serving for a long time. The rapid progression of the son through ranks to that of general was too quick leading to suspicions that the president was either consolidating power or was preparing the son to take over from him once he retires (Associated Press, 2017). The former president of Zimbabwe, Mr. Robert Mugabe, before being overthrown had appointed his wife as the vice president yet she did not hold any political position in

the ruling party, and had never contested for a political seat. This proves that presidential system is subject to manipulation therefore problematic.

Bahro (1995), states that this feature of a president being the sole elected representative of the nation as a single constituency is not only in presidentialism but it is also present in semi-presidentialism especially in a scenario where the president's party has majority seats in the legislature and he has a free hand in nominating the prime minister. He argues that this can result in personalization and centralization of power with little regard to the opinion of the minority parties.

Shugart and Mainwaring (1993), agrees with Linz on this argument and go ahead to state that in the case of parliamentarism, being fully aware of the fact that he is at the mercy of parliament, the prime minister is likely to cede ground to the demands of legislators in order to remain in power. However, in situations of loyal multiparty systems, and the majority of legislative members are from the prime minister's party, then the executive might tend to conduct its business with little regard to the interests of other opposition parties and legislators.

This chapter has critically analyzed the ills of presidentialism and compared them to semi-presidential and parliamentary systems. As much as Linz's (1990) arguments are valid, they are also present in the other systems. The difference is the degree of prominence of the four issues in all the three systems. They are more pronounced in the presidential system.

2. CHAPTER: METHODOLOGY

This chapter will detail the research method that I used in this study, definition of the method, reasons for the choice of the method, criticisms to the method by various scholars and the defenses given of the method by its proponents, then finally, advantages and disadvantages of the method.

Research is a kind of investigation carried out by an individual with the intension of discovering new information or facts about a certain issue. Research methods, on the other hand, are tools used by the researcher in conducting his investigation. Case study method, therefore, involves probing and evaluating the being of a social unit (Groode, Hatt, 1953).

Case implies a geographically defined phenomenon examined at a single instance in time or over a period of time. The case encompasses the type of phenomenon that an interpretation attempts to describe. A case study can be said to be the intensive examination of a single case in which the goal of the research is to, at least in part, give an idea of the situation on a larger group of cases (Gerring, 2006). Historical Case study is the orderly acquisition and assessment of data in order to describe, understand, and demystify past actions or occurrences. This approach helps in explaining processes and results of an event or events through comprehensive observation, reconstruction and analysis of the subject under study (Tellis, 1997). According to Gerring (2006), if one has many case studies, then the study of every case will not be as intensive as it would have been if he only focused on a few or a single Case. Though, the more the cases, the more confident on representativeness the researcher becomes. Depending on what one is arguing, a country may function as a population, a case or an observation.

This study method has the following merits and demerits (Kothari, 2014).

- 1) The data acquired via this method is important for hypothesis formulation and for laying the foundation for further research on the topic under investigation.
- 2) The use of this method helps the researcher to acquire in-depth information regarding the characteristics, qualities and traits of the subject under inquiry.

- 3) The collected comprehensive information collected via this method can help to catalyze new research about the topic under investigation.
- 4) Case study method helps in improving the experience, skills and abilities of the researcher in analyzing the content of the collected data.
- 5) Under this method, the researcher has a variety of tools to choose from in collecting information. For example; documents, questionnaires, interviews etc.
- 6) This method provides a platform for in-depth and intensive study and analysis of occurrences within the study area which helps in contradicting or confirming the established theory

This method has several characteristics that distinguish it from others. One, is that it relies on evidence retrieved from a single case and at the same time attempts to bring out features of a wider set of cases. For example, for this thesis I am interested in presidential system in Kenya. After this research, the reader will be able to get an overview of how presidentialism works even in other countries. The cases involved in a study may either be qualitative or quantitative in nature. This makes case study be flexible as compared to other methods.

The second characteristic is, by definition, case study method is fixated on a single and relatively defined unit. In a single unit, within-case evidence is often extensive as compared to several units/cases. This makes the researcher get into the depth of the research topic thus being able to test his hypothesis extensively (Lisa Peattie, 2001). Studying Kenya as a single case would enable me test the hypothesis extensively as compared to if I would have chosen multiple cases.

The third characteristic is, this method has a representativeness deficiency due to its focus, by definition, on a limited number of cases of a broader phenomenon. This can be interpreted as a generally weaker attribute to this method with reference to external validity than other methods. However, to counter this attribute, case study method has an internal validity virtue which makes it easier to establish the credibility of a causal mechanism in reference to a single case rather than a wider set of cases.

Flyvbjerg (2006), noted several criticisms to this method that he deemed were wrong. One; there were assertions that Case Study method could not be used to generalize from a single case and that there was no scientific contribution of the method to the research. Flyvbjerg used examples from other scholars that disqualified this misunderstanding. He argued that carefully selected cases, and experiments were critical for the advancements of the physics of Einstein, Newton, and Bohr.

This method also occupied a critical spot in the works of Freud, Marx, and Darwin. Therefore, in social science, the case choice can go a long way in generalizability of case study. He went ahead to emphasize that the choice of method is determined by the problem under investigation and its circumstances. Additionally, Flyvbjerg (2006) argued that formal generalization based on the sample size, whether large or single case, does not necessary become the main key source of scientific progress.

Thomas Kuhn (1997), argued that generalization is not the most important skill that one is supposed to have in science, instead, it's just one of those skills that a researcher is supposed to possess. The Term science in German language means, "to gain knowledge," therefore, the ability to generalize is not the only mechanism of gaining knowledge. According to Kuhn, a purely descriptive, circumstantial case study minus any generalization attempt can still be of value to scientific growth and innovation.

To clarify this misunderstanding, Flyvbjerg (2006), concluded that a research can generalize on the grounds of a single case, and the case study may be critical to development of science as an alternative to other methods.

The second misunderstanding of case study method was that it was subjective. Gerring (2006), provided a counter argument to this criticism as indicated above. In his article, Flyvbjerg (2006) countered this argument by stating that the case study method does not contain outstanding bias towards verification of the preconceived notion of a researcher as compared to other research methods.

The third misunderstanding was that it is difficult to summarize specific case studies. This misunderstanding was based on the amount of narrative involved in this method and was alleged that this element makes it difficult for a researcher to summarize his findings into

clear scientific formulae, theories, or general propositions (Mitchell and Charmaz, 1996). Flyvbjerg (2006), on the hand argues that the mere fact that this case study method can result in huge amounts of narrative or data is proof enough that the research will have acquired a rich and bulky volume of relevant material that will go a long way in making sense of the subject under investigation.

Lisa Peattie (2001), reaffirms Flyvbjerg's argument by stating that, infact, a researcher should not try to summarize the bulk of his case study because he risks losing the contextual nature of mutually exclusive concepts. The value of the case study is in its rich narrative. Peattie (2001) goes further to say that the thick case study is more useful and interesting to the researcher for social theory than high levels of theory generalizations. Instead, a case should be left open for individual reader's own interpretation.

The fourth misunderstanding was that the case study method was useful for hypotheses generation while other methods are preferable for hypotheses testing and theory building. This perception was based on the earlier misunderstanding that one cannot generalize research findings on the basis of a single case. The article went ahead to assert that case study method was useful for both hypotheses generation and testing and that it was not only limited to these two functions. Eckstein (1975), states that case studies are important at all the theory building process stages. They are in fact more vital in the theory building process where least value is attached to them and that is the phase where contender theories are tested. Eckstein concluded by stating strategic selection of case studies can increase generalizability.

The last misunderstanding stated that theoretical knowledge was superior as compared to practical knowledge. Flyvbjerg (2001), emphasized that this conventional view was problematic and instead insisted on the understanding of the role cases play in human learning. He argued that case study produces context-dependent knowledge that helps researchers to grow from beginners to experts in their respective fields. He further stated that all experts are as they are due to the continuous study of concrete cases in their fields of specialty and that context-dependent experience and knowledge are backbone of expert activity.

The choice of this method was made in order to make people understand what happened in the past for the purposes of; making future predictions, application of the findings to prevent present and future problems, and hypotheses testing concerning the relationship between the variables under investigation.

In this research, the researcher followed these steps;

- 1) Problem definition.
- 2) Identification of relevant sources (Documents).
- 3) Summarizing of the information acquired from historical sources.
- 4) Then evaluation of the sources above.

This research method permits an individual to carry out investigations on topics that cannot be studied in any other way (Bryman, 2016). For example, Since the researcher is out to get insight into events that have happened in Kenya since independence, case study was the ideal way of getting information about the period in question through looking into documents that were written by someone who witnessed the occurrences or someone who wrote information by acquiring it from people who witnessed or were part of event at that time.

I used the single case study technique in conducting this study. In this case, the area of interest is Kenya. In this study, I aim to acquire a detailed and complete account of how the presidential system has worked in Kenya since its independence.

On the 12th of December 1963, Kenya became the 34th independent state in Africa. There were celebrations in Nairobi attended by former freedom fighters and officials from the British and US governments. Harambee, meaning pulling together, became the independence motto. Jomo Kenyatta became the President one year later after Kenya gained internal self-rule (Cox, Richard, 1965).

At independence in 1964, there was a mood of oneness, at the time, which engulfed the country that swept away ethnic divisions and encouraged nationalism for the prosperity of all Kenyans. Kenyans felt liberated and in charge of their own affairs. President Kenyatta ruled until 1978 when he passed on in his sleep. This ushered in a new era which was to be led by his then Vice President Mr. Daniel Toroitich Arap Moi. This as

noted by Linz is problematic in presidential systems where someone who would not have been able to gain office if subjected to a popular vote gets into the Chief Executive's office anyway. Linz (1990), referred to this as problematic in presidential systems since it would be worthwhile in normal circumstances for the people to be given a chance to elect their preferred leader rather than someone assuming the position without their consent.

Mr. Moi, took over the presidency on an acting capacity as mandated by the constitution for 90 days before a presidential election was conducted. Moi went on to consolidate power and rule for 24 years. Both Moi and Kenyatta imposed one party states in the pretext that multi-partysm was a recipe for ethnic and societal divisions. Their regimes were characterized by annihilation of the separation of powers principle, detention without trial of political prisoners and human rights violations (Mutua, 2008).

President Moi was replaced in 2002 by Mwai Kibaki after the constitutional term limit of two terms had come into effect. During Kibaki's tenure, the most catastrophic post-election violence occurred which left thousands of people dead and others displaced. Electoral malpractice, shrinking of media freedoms, Ethnicity and corruption bedeviled his government.

Uhuru Kenyatta took over the mantle in a controversial election in 2013 that was disputed by the opposition coalition. His first term in office was characterized by extreme public relations campaigns by his government in trying to endear it to the people. His re-election in 2017 was nullified by the supreme court of Kenya after anomalies and illegalities were noted in the process of conducting the elections by the electoral commission. This controversial election saw an officer of the electoral commission murdered in controversial circumstances where a government hand was alleged to have been involved. To date, the perpetrators of the crime have never been brought to book. A re-run of the presidential election was boycotted by the opposition. During his tenure, ethnicity in public service appointments and major corruption scandals have dogged his government.

In this study, I endeavored to find out how kenya's presidentialism has fared on since its inception in 1964 at independence to 2017 with respect to how it has affected democracy.

I argue that presidentialism is problematic for Kenya courtesy of the excesses of the presidents who have been in power since independence. In the next chapter, I will use Linz's arguments and quote evidences in the Kenya case to vindicate my claim.

Personalization and centralization of power by the president, interference in electoral processes, human rights violations, manipulation of the constitution through controversial amendments hence undermining the separation of powers principle, gaining of the chief executive's office by a person who would not have otherwise done so if subjected to popular vote among other issues have characterized presidentialism in Kenya.

3. CHAPTER: CASE OF KENYA

This chapter looks at the performance of the democratic experiment that was instituted by the British colonial government in its last years of administration. The chapter also brings the performance of the presidential system in Kenya since its independence into perspective. The chapter will also seek to confirm my argument that presidentialism is problematic for Kenya. The research question as stated in the beginning of this thesis will also be addressed in this chapter.

3.1 Democratic Experiment

Kenya's democratic experiment that was instituted by the British colonialists in the later years of their colonial administration period. It was premised on a compromise foundation between the collaborators and opponents of the administration. This experiment was brought into question in 2007 after a disputed presidential election. The resulting violence showed the failures and weaknesses of the experiment. Many scholars including Mutua (2008), argue that the 2007 post-election violence was caused by short term trigger provided by the heavily contested election, and historical factors that revolved around land distribution and exclusion of some tribes from influential leadership positions.

Historical factors that were noted to have contributed to the violence include; first, land in the rift valley province was made available to members of the first president's kikuyu community from central province. This was seen by the native kalenjin community as invasion by outsiders on their ancestral land. Secondly, leaders from the luo community were systematically excluded from power yet their leader, Mr. Oginga Odinga, played a crucial role in the installation of Mr. Jomo Kenyatta as president. Mr. Oginga was also continuously barred from contesting in one party elections during the first and second presidents' regimes. The third factor was the assassination of Mr. Tom Mboya, a politician from the luo community. This assassination led to animosity and mistrust between President kenyatta's kikuyu community and and the luo community. The fourth factor was that most influential positions that formed the core of the executive office, for example; finance minister, head of the army, president, and foreign affairs minister were allocated to the kikuyu community excluding the other communities.

Branch and Cheeseman (2008), argued that as much as they concur with other scholars that historical and short term trigger might have been some of the causes of the democracy collapse in Kenya in 2007, they believed that three other intertwined factors significantly contributed to the Kenyan crisis.

First, elite fragmentation. Kenya's post-independence political life with a "bureaucratic-executive state" centered at a powerful presidency was anchored on a powerful provincial administration that was created by the British colonial government in early 1960s. This provincial administration helped the president have firm control over the political activities in the entire country from the national to the grass roots level. During the final years of the British colonial administration, the British government brought together people from the two divides, those who were fighting the British rule (the mau mau), and those who were supporting it (collaborators). This was so in order to achieve a post-colonial settlement upon which their survival and security of their wealth depended. This experiment created a group of powerful elites that meant survival of the succeeding government depended on this group's collusion, good will and patronage. This collusion was so important in protecting the post-colonial settlement and wealth of the parties in the involved in it.

A few years into the settlement, within the kikuyu community, former mau mau fighter felt betrayed at the manner in which land redistribution was being carried out which was a critical issue during the British led settlement agreement. This created divisions among the elite. Allegations of marginalization arose during this face inculcating mistrust within the ranks of the elites. When President Daniel Moi took over power in 1978, he was faced with a combination of factors that led him into dismantling the elite. First, there was falling public funds as a result of donors withholding aid. Second, there was political uncertainty which set in motion predation and economic decline.

With cash crunch biting, President Moi lacked adequate financial power to co-opt potential opponents into his circle, he instead adopted marginalization strategy that saw most of the elites that had been created by the colonial administration sidelined from government activities. To ensure that this move succeeds, Moi banned all ethnic based welfare organizations and political parties making Kenya a de jure one party state in 1982. This

move brought the control of the political activities in the entire nation under the control of the presidency.

In the aftermath of this step, President Moi replaced top administrative officers in the government, like military chiefs, central bank governor, and parastatals' heads, with people from his ethnic kalenjin community. Advantages in key sectors, including agriculture, were accorded to Moi's community at the expense of the kikuyu community which had gotten used to such favors during the first president's term. This, coupled with the actions of the first president, made communities believe that whenever one of their own is in power, they stand to gain a lot in terms of development, public appointments, and financial favors.

With the declaration of Kenya a one party state, President Moi the strong coercive capacity of the state to ensure his regime's firm control over economic and political life. This force his opponents, real or perceived, deeper underground. Fear and coercion replaced consensus of the elites as a mechanism that held the Kenya's democratic experiment together.

In the 1988 general elections, non-kalenjin politicians lost their seats especially in rift valley. The queue system, where voters lined up behind their preferred candidate and whoever had the longest queue was declared the winner, was introduced by the ruling party under instructions from the executive.

Second, political liberalization. In 1992, President Moi accepted to rescind the earlier decision of making Kenya a one party state, and allowed a multi-party elections. This decision was premised on two assumptions. One, the hope that the much needed financial aid from donors would resume. Two, that the multi-partysm would help Moi to retain power and have much more control over the political activities in the country.

This political liberalization move led to opening of democratic space, legalization of opposition political parties, and release of political prisoners. This moves meant further elite fragmentation since they dwelt on their influence to suppress any dissent, but with the opening of political and democratic space, their influence had deeply been undermined.

The consequences of this to the ruling party, KANU, were not anticipated by President Moi. Many members of KANU defected to other political parties like; FORD, and DP. These defections made KANU a minority government. Being fully aware of the impact created by this liberalization, Moi adopted a divide and rule approach and promoted opposition disunity thus elongating his stranglehold on power with no substantial threat to his rule.

Political liberalization did not however lead to democratic consolidation and institutional reforms. Instead, there was increased corruption levels, rise of militias associated with militias who were fighting to retain political relevance, and ethnic conflicts. The possibility of being voted out of power as a result of the political liberalization made government officials and politicians to embark on a looting spree in order to secure their retirement. So the intended purpose of political liberalization was not necessarily achieved but instead escalated economic plunder. At this time, the accountability institutions were weakened in order for the state to proceed with the economic plunder without question.

Zambia, Burundi, Rwanda, and Nigeria are some of the African countries that had almost the same outcome of political liberalization. Nigeria reported the highest corruption index in Africa, human rights in Burundi have been a thorn in the flesh of the government to date, same case to Rwanda.

Third, State informalization; in the 1990s, the KANU government devolved violence control to local, or ethnic militias in order to deflate the opposition votes. This was supposed to work in a manner that the polls environment was surrounded by violence to create suspicion and animosity among rival groups and result to flawed process and guarantee a win for a government friendly candidate.

Ethnic cleansing in the 1990s marked President Moi's regime. Ethnic communities that were deemed to be outsiders in the government controlled areas like the rift valley province were exposed to violence. Most of them had to relocate under duress. A considerable number of people died as a result. These "outsiders" were displaced and violently pushed out of certain regions because they were seen as potential voters for opposition candidates who were unfriendly to the ruling elite and therefore threatened the continued stranglehold to power by the KANU regime.

The outspoken Bishop Muge, and Dr. Robert Ouko, both from Nyanza were the casualties of the violent nature of the regime. Politicians Kenneth Matiba and Charles Rubia were detained without trial in order to scuttle their chances of rising to power, therefore, deflating their threat to Moi's presidency.

Key debates to constitutional reforms in the 1990s were met by violence orchestrated by the state under the jeshi la mzee militia group in rift valley province. The 2007/8 post-election violence was tragic, however, it's important to note that it was not unprecedented. The unleashing of violence on groups with tribal connotations arose from the devolving of violence organs from to ethnic militias during President Moi's regime in the 1990s. This was a measure of handling the threat to his continued stay in power. Ethnic fragmentation played a direct in the violence because it heightened historical tensions that had been earlier suppressed by the unity of the elites. So the militias that rose from the fragmentation of the elite, unleashed their fury on each other and on innocent citizens.

These militias can also be said to have been brought to life by the absence of the state in the welfare of the larger population of citizens. Also, state actors were not to have contributed immensely in the creation of these militias through financial sponsorship.

3.2 Fixed Term of Office/Rigidity.

Juan Linz (1990), claimed that the fixed term of office of the executive in the presidential system is problematic because in case a president loses confidence of the people or dies, people are not given a chance to elect a new leader of their choice but rather a vice president automatically takes over. This enables a person who would not gain entry into the executive office if subjected to a popular vote to gain it anyway without the consent of the people. However, proponents of this system argue that this feature has a possibility of ensuring stability within a state instead of removing presidents, like Prime Ministers, in case of a misunderstanding. In Kenyan case, there have been notable events that have vindicated Linz's argument. The first one is, in 1978 when the first president of Kenya died, Mr. Daniel Moi, the then Vice President automatically took over the presidency without subjecting himself to a popular vote to determine whether or not the Kenyan electorate would approve him or not. This denied the Kenyan people the right to make their contribution to the leadership of their country.

The second one is, a constitutional referendum was held on 21st November 2005 in Kenya. President Mwai Kibaki and many of his government officials campaigned for the “yes” for the proposed constitution change. Quite a number of the government and ruling party politicians campaigned against the proposed constitutional change. Those who were against the change carried the day. President Kibaki’s camp lost the vote. This led to a sharp division in his government and the ruling party. He lost popularity to the extent that some politicians called for him to step down having lost the referendum and therefore demonstrating that Kenyans did not trust or believe in his leadership. He sacked those member who had campaigned for the rejection of the constitution change. He was at that time leading a minority government. There was no constitutional provision that required a president to step down once he lost the support of the people. This confirms the reason why Linz referred to the fixed term of office as a problematic feature in presidentialism.

The third issue is, in 1992 presidential elections, President Moi was controversially declared the winner and his party did not secure a majority to comfortably form the government and discharge its mandate without problems in the national assembly. Mr. Moi was very unpopular but still went ahead to serve his five year term despite the unpopularity. This can be said to be problematic because, if it were the case in parliamentarism, then a coalition government would have been possibly formed.

The fourth issue is the position of the vice president who in case of death of a president, he takes over. In many presidential constitutions, the vice president is normally nominated or appointed by the president. If it’s a matter of serving the nation, isn’t it important for the people to have a say in the appointment of the person? In 2003, the then vice president of Kenya, Michael Kijana Wamalwa died in London after a long illness. The appointment of his successor, Mr. Moody Awori, was not done in the interest of the nation but to serve the selfish purpose to award the president’s cronies (Mutua, 2008).

The fifth issue is, in 2007, President Mwai Kibaki won the election with the slightest of margins in Kenya’s electioneering history. Just like Moi in 1992, Mr. Kibaki’s party did not have majority seats in the national assembly, instead, the rival party, Orange democratic Movement, had the majority of the seats. In the run up to the elections, Mr. Kibaki had

become very unpopular with the electorate. The unpopularity started from the 2005 referendum vote that he had lost. But despite all the unpopularity, no second vote could be called determine the choice or the position of the Kenyan people.

3.3 Winner Take All

Linz (1990), noted that the winner take all feature makes presidential elections very fierce because the winner has complete control of formation of government and appointments to various positions without regard to his competitors who might even have lost with the slightest margin. This argument can be spotted in Kenya's presidential system since independence.

First, in 1964, when Jomo Kenyatta was installed as the president, he started by forming a unity government that included people from most of the ethnic communities in Kenya, but soon afterwards in 1969, he differed with his vice president and sacked him immediately. After the sacking, he gave the vice presidency to Mr. Moi, a close ally, then went ahead to start personalizing power by installing people from his ethnic community to key government positions. His staff members were all from his ethnic kikuyu community. When Mr. J.M Kariuki questioned the rationale behind ethnicization of politics and the executive in 1975, he was found murdered a few days later.

Second case, in 1978 when Mr. Daniel Moi took over the presidency after the death of the first president, Mr. Jomo Kenyatta, he embarked on an overhaul of the government by sacking officers from key government agencies and parastatals and replaced them with people from his ethnic community. The key agencies included, military and national security, Kenya Commercial Bank, Central Bank of Kenya, Agricultural Corporations, and National Cereals and Produce Board (Korwa, Munyae, 2001).

The third case is the 1992 appointment of 11 commissioners of the electoral commission by the then president Daniel Moi. He did this in total disregard of the interests of other parties despite the fact that these parties were to be subjected to an electoral process that was controlled by these officials. Being presidential appointees, they had every reason to dance to the tune of their appointing authority.

In addition to Linz's (1990) claim about the winner take all aspect, Hague (2016), noted that this aspect makes politics be a zero-sum game with high stakes attached to it which can lead to chaos in a country if presidential elections are not well managed. He went further to claim that elections that seek to change the executive leadership of a country attracts huge voter turnout. In this turnout, there are those who seek to retain the status quo and those who seek to change and vote in their own. With the ultimate winner having a lot of constitutional powers especially over appointments, this can lead to polarization of a nation with rival camps having in mind the fact that they will be out in the cold should they lose the election. They, therefore, do whatever it takes to stake claim to the presidency. They even go as far as arousing the emotions of their supporters which can be destructive should anomalies arise from the electoral process. Hague, therefore, argued that these electoral process should be managed carefully to avert a catastrophe. In Kenya, several presidential results have been disputed at times leading to post-election violence. An executive's hand in attempt to influence these elections in order to retain power and appointments has been reported in most of the disputes. The outcome of elections and the manner in which the elections are handled show how far presidents are ready to go in order to retain their winner take all status. The first one is, the controversial 2007 declaration of Mr. Mwai Kibaki as the winner of the presidential election in a tense environment resulted to eruption of violence within a span of half an hour across the country. He allegedly won with the slightest of margins ever recorded in Kenya's elections' history since the inception of multi-party politics. The election results' documents at the national tallying center contained a lot of serious anomalies and inconsistencies that could not be verified and the final figures that were announced by the ECK chairman were questioned by the various political party agents whose candidates contested in the elections (Cheeseman, 2008).

When later asked whether he was sure that the incumbent had fairly won the presidential election, the Electoral Commission of Kenya Chairman said he wasn't. But earlier in his statements, he confirmed to the media for having been under undue pressure from the regime to announce unverified results. He also claimed to have been hit in the back by pro-government officials who were frustrated by his delay to announce the results. At this point, the independence of the institution (ECK), was brought into question.

Approximately 1000 lives were lost during the ensuing skirmishes while over half a million people were displaced from their homes (KHRC report, 2007).

The second one is, in 1992, President Moi, without following the law or consulting the key political players, appointed 11 new electoral officials before the elections. These officials had direct influence on the outcome of the presidential elections. This step compromised the political environment and led to protests by the opposition, the civil society and the clergy. These Commissioners were mandated to determine boundaries of constituencies, conduct and supervise elections. Contrary to the electoral rules where a supervisor of elections was to be appointed, the President went ahead and appointed a Director of elections who was tasked with the responsibility of supervising the elections of 1992. In this regard, the Director of elections and the commissioners were working towards opposite directions. The commissioners, however, later exercised their independence by voting to remove the Director of elections' office. According to the mandate of the commission, it was not supposed to work under influence or direction from any other authority apart from itself. After the declaration of Moi as the winner of the 1992 presidential elections, violence broke out across the country. People were evicted from their homes and termed as foreigners. In the Rift Valley province, the ruling party stronghold then, people from non-kalenjin tribe were the main targets. In retaliation, other tribes also evicted Kalenjins from their ancestral home lands (Opalo. K, 2017).

The third one is, the August 6, Aljazeera report (2017) on ethnicity in Kenyan elections painted a picture of how ethnicity plays a big role. Voters aligned themselves to their respective tribal candidates that anyone would definitely predict the voting patterns. Those interviewed are on record admitting that they would only vote in one of their regardless of their manifestos and what they stand for. They believed that once one of their own is in power, he can appoint their kin to powerful positions in government.

The election mood was so polarized that people who were working in regions outside their ancestral homelands packed up and returned to their ethnic regions. There were claims of plans by the government to rig the elections. When Mr. Chris Msando, the man in charge of ICT and results transmission at the electoral body, was murdered and investigations shrouded in controversy, there were suspicions that the accountability of

the process was compromised. Upon declaration of Mr. Kenyatta as the winner, violence broke out in opposition strongholds. The violence was met by the brutal force of the state security agents. Many people were killed. The Supreme Court would later invalidate the presidential elections results citing illegalities and irregularities committed by the electoral body and called for a re-run of the contest. Mr. Odinga would then withdraw from the re-run citing a predetermined outcome and doctoring of voting materials by the government.

3.4 Sole Representative of a Nation.

Svolik (2012), argued that the fact that the president is the sole elected representative of the whole nation as a single constituency and therefore vested with considerable amount of power can lead to intolerance to the opposition and critics. Several examples can be cited in the Kenyan case in relation to this argument. The first one is, in 1969, more than eight opposition politicians led by Jaramogi Oginga Odinga were arrested and detained for being members of outlawed groups. The said outlawed groups were political parties. This was the case because the president had banned multi-party politics. Kenya People's Union (KPU), the opposition party whose members were detained, had earlier been proscribed by President Kenyatta. The President justified his actions by stating that it was in the interest of national security and that he couldn't allow a handful of people to undermine it (Hempstone, 1997).

The second one is, in 1969, Mr. Tom Mboya, the then minister for economic planning in President Jomo Kenyatta's government was assassinated by people believed to have been government operatives. This was done after Mr. Mboya, with unquestionable academic credentials, having studied at Oxford University, with a lot of influence in the ruling party, and viewed as a likely successor to Kenyatta, was deemed as a threat to the Presidency. Investigations surrounding his murder were shrouded in controversy. The murder escalated tension between the president's Kikuyu ethnic community and Mboya's Luo.

The third one is, in 1975, J. M. Kariuki, a seating member of parliament then, criticized the government of having made Kenya a country of "ten Millionaires and ten Million beggars," due to its bad economic policies and unfair distribution of resources. Kariuki's statement meant that a few influential individuals around the presidency had amassed a

lot of wealth at the expense of millions of Kenyans. He would later be found murdered under mysterious circumstances. Just like Mr. Tom Mboya's murder, investigations into Kariuki's death have never been completed indicating complicity on the part of the government due to the fact that it had all the resources at its disposal to investigate, arrest and prosecute the perpetrators if at all, it was not a government sanctioned murder (Haugerud, Angeliq, 1995). In this regard, the problematic nature of presidentialism is brought to the fore due to the extreme measures the executive is able to take to tame dissent or contrary opinions.

The fourth one is, when Daniel Toroitich Arap Moi became president in 1978, He embarked on consolidating power and stifling the opposition by banning multi-party politics, a ban that had been lifted earlier, through introduction of the number 7 amendment Act of 1982 which made Kenya a de-jure one party state. Multi-party politics was officially banned and any dissent was forcefully dealt with (Kenya Judicial Commission report, 1984).

All ethnic and community centered welfare groups and trade unions were banned by 1981. These associations included; Abaluhya Union, Gikuyu Embu Meru Association (GEMA), Luo Union among others. The University of Nairobi Staff Union (UNSU), and Civil Servants Union were also outlawed. Some non-governmental national organizations were directed by the presidency to be affiliated to the ruling party, KANU, and even had to change their names to reflect this affiliation. One organization for women in Kenya, called Maendeleo Ya Wanawake Organization (MYWO), changed its acronym to KANU-MYWO in 1987 to reflect the will of the president. By 1990, a total of twenty four amendments were made to the constitution thus strengthening the presidential control over the nation at the expense of civil rights (Maina, 1996).

After the Staff Union of the University of Nairobi was banned, the university's faculty members, among them; Katama Mukangi and Willy Mutunga were detained for political indulgence. This marked the beginning of a crackdown on Kenyans whether they were in politics or not. The crackdown targeted those who were perceived to hold different opinion as compared to that of the government. To add on the detention of University faculty members, passports of lecturers critical of Moi's governance style were confiscated by the state (Ogot, 1995).

The fifth one is, between 1989 and 1991 marked the darkest period of political opposition intolerance in Kenya's post-independence history. Advocates of multi-party politics were accused of subversion by the executive, giving the president an excuse to continue detaining his critics. Kenneth Matiba, Mohammed Ibrahim, John Khaminwa, Gitobu Imanyara, Charles Rubia and Raila Odinga were detained without trial under inhumane conditions. Kiraitu Murungi and Gibson Kamau Kuria, human rights lawyers, escaped jail by fleeing to the United States of America.

The sixth one is, in 1990, the then Minister for foreign affairs, Dr. Robert Ouko, was assassinated allegedly for being too close to western powers and having grown in popularity and therefore regarded as a threat to the executive. Calls for perpetrators to be identified became part and parcel of agitation for human rights and pluralism. In order to rescue his government from imminent collapse due to immense pressure, the President employed tough authoritarian style and justified his actions by stating that multi-partysm was a recipe for chaos in Kenya as the country wasn't cohesive enough. Human rights activists and pro-democracy advocates held a meeting called saba on the 7th of July 1990. This meeting was met with a crackdown by the state that led to death of the some attendees and arrests of the conveners of the meeting.

The seventh one is, in 1994, Koigi Wa Wamwere, a fierce government critic, was arrested and charged for subversion. His case was faced with serious state interference where evidence could be tampered with and other mysterious charges introduced. Judges could interfere with court proceedings under instructions from the presidency. Judges handling political cases were mainly from the President's Kalenjin tribe therefore whoever was presented before them was almost assured of not getting justice (Human Rights Report, 1995).

The eighth is, after the re-run of the 2017 presidential elections which the main opposition candidate Mr. Raila Odinga boycotted, Odinga embarked on a 10 day tour of Europe where he spoke in various functions in the United Kingdom and other countries. Upon completion of his tour, he returned to Kenya and was welcomed by his supporters from the airport. On the other side, the security forces did all they could to stop his procession

from accessing Uhuru Park, a venue where he was scheduled to address a rally, through Mombasa Road. The police had erected roadblocks all the way. Heavy gun fire and clouds of tear gas dominated the air. A journey that would normally take fifteen minutes from the airport to the venue of the rally took approximately four hours. More than five people were killed and several others injured. Vehicles belonging to the opposition leader and politicians were damaged. The irate opposition supporters torched a police lorry. The police are claimed to have been receiving orders from above. A confrontation of such magnitude would not have gone down without the blessings of the executive. What was so difficult in letting the opposition leader move smoothly from the airport to the venue of his rally remains the biggest question in the minds of many. This is so because, lives would not have been lost, people would not have been injured and property would as well not have been destroyed (Standard Digital, 2017).

To further demonstrate the excesses of a powerful executive, Acemoglu and Robinson (2001), argued that the right to publish, speak by individuals and media, organize and assemble are necessary for fair political contestation. Many authoritarian or collapsed presidential regimes have been noted to have shrunk these rights and freedoms. Fearing that the masses might rise up against their regimes, presidents resort to gagging the media so that no dissent or criticism is aired unless consent is given by the executive. In relation to this argument, the following events occurred in Kenya.

First, on the 2nd of March 2006, Kenyans woke up to the dark screens of their favorite television station KTN when hooded men raided the premises of Standard Media Group, switched the television station, burned newspapers and roughed up journalists. When the then internal security minister, John Michuki, was asked if the state had knowledge about the raid, he confirmed that it was the state that had sanctioned the operation. This was against the constitutional freedom of press by the government. Details later emerged that the raid had the blessings of the president in relation to a news story that was scheduled to be published the next day by the media house touching on the first family and the government. Mr. Michuki claimed that this move was in the interest of National security. Apart from curtailing media freedom, this was argued to be personalization of power and

running the state like an extension of President Kibaki's household (Standard digital, 2018).

Second, 2018, 30th January, the state under the leadership of President Uhuru Kenyatta, ordered the Communications Authority of Kenya to switch off three leading television stations in Kenya for airing an opposition rally at Uhuru Park in Nairobi, Kenya. This was at a time when the opposition had boycotted the re-run of the nullified August, 8 elections. The election had been nullified after illegalities and irregularities had been cited by the Supreme Court as having been committed by the electoral commission (Aljazeera, 2018).

Third, the freedom to assemble and organize was brought into the picture in the period leading to 1997 elections. Faced with an opposition that was divided, senior officials of KANU, the ruling party, and President Moi banked on a comfortable parliamentary and presidential win that would help them pass legislations in parliament and run government without a hitch. However, the entry of a reform movement known as National Convention Council, led by its National Convention Executive committee (NCEC) into the political arena jolted the government's plan. The movement entered the murky waters of politics with the slogan, "No REFORMS No Election" and politically mobilized Kenyans to buy into their idea (Mulli, 1999).

Their first rally took place in Limuru, a town located in the outskirts of the capital city, Nairobi. The rally coincided with the Saba saba day, July 7, which was the anniversary of the violent confrontation between the police/state security and the opposition that had taken place seven years earlier in the push for multi-party politics which left ten people dead and hundreds injured. The government did not permit the National Convention Council rally but the organizers went ahead with it anyway. It was met with brutal force by the government security agencies and left several people seriously injured. Seven days later, after the Limuru rally, government security apparatus stormed into the All Saints Cathedral Church, the main Anglican church in Nairobi, disrupting a peace prayer service leaving a prominent and vocal pro-reforms activist and church leader, Reverend Timothy Njoya in a critical condition. This, however, did not cripple the movement, instead, it made its resolve stronger as it carried on with country wide rallies (Ajulu, 1998).

Fourth, before the campaign season leading to the 1992 presidential elections, the then ruling party, KANU, had amassed huge and unlimited national, financial and administrative resources that could not be matched by any other party. They had total control of media houses. Kenya Times, Kenya Television Network (KTN) and Kenya Broadcasting Corporation (KBC) were the main media then and could only air what favored the government. The opposition parties were left with limited options of using the gutter press which had limited circulation, readership and viewership (Opalo. K, 2017).

Fifth point is, between 1990 and 1995, the media and Non-Governmental Organizations were added to the list of Suppression of critical freedoms like; freedom of press, movement, assembly, expression and association and fundamental rights of citizens. Professor Ngugi Wa Thiong'o's book titled, "I will marry when I want," and "Animal Farm," by George Orwell were banned for being subversive in 1991. This was because the books were critical of African dictators. The Church, the Law Society of Kenya and Civil Society had by this time gotten used to the arrests and harassment by the state but had not relented in protesting every violation of human rights by the state (Adar, 2001).

3.5 Dual Legitimacy.

Juan Linz (1990), observed that dual democratic legitimacy of the national assembly and the executive can lead to a strife when they hold different views on certain policy areas/issues. The strife can make one of the arms to undermine the functions of the other. This aspect, however, can be good for a country especially when parliament steps in to deter the president from being dictatorial. In relation to this argument, the following events have happened in Kenya since independence. The first one is, the number 7 amendment Act of 1982 that was introduced by parliament, on orders of president Moi, transformed Kenya into a de-jure one party state reinstating the laws that legalized detention of the government's or president's critics. These laws had earlier in 1978 been abolished. This, plus other constitutional amendments and presidential directives set the pace for an over bearing presidency. In these amendments, the president was bestowed with the power to suspend rights of individuals as guaranteed in the constitution. The right to access information from the president's office by the parliamentarians was revoked. In simple terms, legislators and their constituents lost their rights as enshrined in the constitution to

the presidency. The ruling party KANU and the president took over the supremacy of parliament (Ogot, Ochieng, 1995).

Second, the constitutional Security of tenure for public officers, including; the Auditor general, Controller of Budget, the Attorney General and Judges of the Court of Appeal and High Court , was removed through the 1986 and 88 amendments. The national assemble in this case acted as a rubber stamp of these amendments. The assembly members had been threatened with dire consequences should any member go against the executive. Since by then, it was under the complete control of the presidency. These amendments meant that the president was now in control of all the three arms of government, therefore, there were no longer provisions of checks and balances to the executive since any attempt to dissent was met with ruthless force. The separation of powers principle had been disoriented.

Third point is, in 1986, the ruling party, since by then Kenya had been declared a one party state by the executive, replaced the secret ballot voting style with the queue system where voters queued behind their preferred candidates and whoever had the longer queue was declared the winner. Anyone who managed to get a longer queue but was a critique of the government was declared a loser and the candidate with the second longest queue, friendly to the government, was declared the winner. In these elections, provincial administrators, who were presidential appointees, became the electoral officials and they were answerable to the president. Disputes that emerged from these exercises were referred to the president for determination. The electorate lost their democratic voting right to the presidency. Elected members of the national assembly were under the control of the president thus diminishing the powers of the national assembly (Hyslop; 1999).

Fourth, the government of President Uhuru Kenyatta withdrew security for opposition politicians on the 1st of February 2018 for having attended the opposition leader's mock swearing in ceremony that was held at uhuru park in Nairobi, Kenya. This was a show of might that even the constitutional right for provision of security to members of the national assemble by the state was at the mercy of the president (Daily Nation, 2018).

The fifth Point is, on the 3rd of February 2018, the government withdrew passports of opposition members of parliament in a crackdown intended to intimidate them into submission. The withdrawal was occasioned by the fierce criticism the legislators had directed towards the government and their attendance of the opposition leader's swearing in ceremony (Daily Nation, 2018).

The sixth point is, in January 2009, the National Assembly passed a vote of no confidence against the former finance minister, Mr. Amos Kimunya, after he was allegedly involved in a scandal that led to loss of billions of Kenya shillings by the government. This was a sign of how an independent and legitimate legislature can exercise its powers in case of reluctance from the executive to act on matters of national interest (Daily Nation, 2009).

This chapter has pointed out scenarios where Linz's (1990) findings about perils of presidentialism came into play. My research question is, is presidentialism problematic for Kenya? If these examples are anything to go by, then the answer to the research question is "YES." This chapter has gone on to give evidence that justify why I argued that the presidential system is problematic for Kenya.

4. CHAPTER: CONCLUSION

The objective of this research was to determine whether presidentialism is problematic for democracy in Kenya. The viability of the presidential system has been brought into question by pointing out critical circumstances where the incumbents acted in a manner that vindicates Linz's arguments.

The analysis of the four points, winner-take-all, dual legitimacy, fixed term of office, and the president being the sole elected representative of a nation as a single constituency, showed that these features are also present in parliamentarism and semi-presidentialism. However, as compared to parliamentarism, these features are more pronounced in presidentialism. My argument in this thesis is, presidentialism is problematic for democracy in Kenya. The data collected and examples given in the preceding chapter, "case of Kenya," gives a strong indicator of how problematic presidentialism has been.

Assassination of legislators, detention without trial, threats to their lives, annexation of their powers, privileges and security have characterized the dual legitimacy aspect of Linz's "perils of democracy." 2nd March 1975, legislator J.M Kariuki was assassinated for criticizing the government. July 5th 1969, Tom Mboya, a member of the national assembly and minister for economic planning was assassinated allegedly for being a threat to the president. He was seen as a potential successor to the president due to his strong academic and professional credentials, so the then government looked at him as a threat to the president's stranglehold on power. From this perspective, the problematic nature of presidentialism is confirmed in the Kenyan practice.

In relation to winner-take-all feature, presidents have systematically sacked employees and replaced them with their own especially from their ethnic communities when they take ascend to power. This has brought the mentality that a community, instead of the nation as a whole, stands to benefit whenever one of their own ascends to power. This is detrimental to democracy. During the reign of the second president, Mr. Daniel Arap Moi, this feature was used to the extreme. He sacked officials from key government departments and agencies, and replaced them with people from his tribe. The military

and national security, Central Bank, Kenya Commercial Bank, Agricultural Corporations among others were some of those departments that had their top officials changed.

Fixed term of office or rigidity in the presidential system was brought to the fore when the first president died in 1978 and was subsequently succeeded by his vice president. The second case was in 2005 when President Mwai Kibaki lost his popularity as a result of the constitutional change referendum loss. The people were not given a chance to replace the president despite the fact that they had lost confidence in him. In 2007, when Mr. Kibaki controversially won his second term leading to the worst post-election violence in Kenya's history, his legitimacy was questioned since his party did not even win majority seats in the national assembly. In fact the President ended up forming a minority government which did not represent the will of the majority.

The final feature which I discussed in the previous chapter was the president being the sole elected representative of a nation as a single constituency may become intolerant to the opposition, critics and even the media. In the Kenyan political landscape, amendments were made to the constitution to give the president absolute powers over the national assembly, judiciary and the media. This was especially so during the reign of the second president, Mr. Daniel Arap Moi. During his reign, he banned multi-partyism, had powers to order arrests and detention of opposition politicians and government critics, and also had the power to hire or fire the Chief Justice of the judiciary. This feature destroyed the separation of powers principle in Kenya's political landscape because even the national assembly was no longer independent and performing its function of checking the executive, instead it became a rubber stamp for the executive's policies.

This thesis' research question was, is presidentialism problematic for Kenya? The answer to this question lies in the narrative that I have compiled. The above reasons are proof enough to cast doubts on the presidential system as practiced in Kenya. My argument from the beginning of presidentialism being problematic for democracy in Kenya has been vindicated. The evidence provided solidifies the hypothesis.

The findings in this thesis do not however suggest that the presidential system is bad altogether and that nations practicing it should abandon it and adopt a parliamentary system. The success or failure of this system lies in the manner in which it is implemented. If the principle of separation of powers is strengthened, independent of institutions upheld, powers of the executive checked by the legislature and winner take all approach, as discussed in this thesis, relooked, then the presidential system can be a success.

REFERENCES

- 1) Acemoglu, D., & Robinson, J. A. (2001). A theory of political transitions. *American Economic Review*, 91(4), 938-963.
- 2) Adar, K. G., & Munyae, I. M. (2001). Human Rights Abuse in Kenya Under Daniel Arap Moi, 1978. *African Studies Quarterly*, 5(1).
- 3) Ajulu, R. (1998). Kenya's democracy experiment: the 1997 elections.
- 4) Albert, R. (2009). The fusion of presidentialism and parliamentarism. *The American Journal of Comparative Law*, 57(3), 531-578.
- 5) Amnesty International. (1987). *Kenya: Torture, Political Detention, and Unfair Trials*. Amnesty International USA
- 6) Angelique, H. A. U. G. E. R. U. D. (1995). The Culture of Politics in Modern Kenya.
- 7) Bratton, M., & Van de Walle, N. (1994). Neopatrimonial regimes and political transitions in Africa. *World politics*, 46(4), 453-489.
- 8) Bryman, A., & Becker, S. (2012). Research design.
- 9) Büttner, T., Weyers, S., Postert, T., Sprengelmeyer, R., & Kuhn, W. (1997). S-100 protein: serum marker of focal brain damage after ischemic territorial MCA infarction. *Stroke*, 28(10), 1961-1965.
- 10) Chaisty, P., Cheeseman, N., & Power, T. (2015). *The Coalitional Presidentialism Project: How MPs Understand Coalitional Politics in Presidential Systems*. Research Report (Oxford: Oxford University).
- 11) Charmaz, K., & Mitchell, R. G. (1996). The myth of silent authorship: Self, substance, and style in ethnographic writing. *Symbolic interaction*, 19(4), 285-302.
- 12) Cheeseman, N. (2008). The Kenyan elections of 2007: an introduction. *Journal of Eastern African Studies*, 2(2), 166-184.
- 13) Cheibub, J. A. (2006). Mixed Systems and Democratic Performance: Do Popularly Elected Presidents In Parliamentary Systems Matter?. *Ponenciapresentada en la reunión anual del American Political Science Association, Philadelphia*.
- 14) Cheibub, J. A., Elkins, Z., & Ginsburg, T. (2010). Beyond Presidentialism and Parliamentarism: On the Hybridization of Constitutional Form. In *International Conference on Democracy as Idea and Practice*.
- 15) Cox, R. E., & Bryant, R. A. (2008). Advances in hypnosis research: methods, designs and contributions of intrinsic and instrumental hypnosis. *The Oxford handbook of hypnosis: Theory, research, and practice*, 2008, 311-336.
- 16) Dahl, R. A. (2008). *On democracy*. New Haven, USA, Yale University press.

- 17) Duverger, M. (1980). A new political system model: semi-presidential government. *European journal of political research*, 8(2), 165-187.
- 18) Eckstein, H., & Gurr, T. R. (1975). *Patterns of authority: A structural basis for political inquiry*. Wiley-Interscience.
- 19) Elgie, R. (1999). *Semi-presidentialism and comparative institutional engineering*. Oxford, UK, Oxford University Press.
- 20) Flyvbjerg, B. (2006). Five misunderstandings about case-study research. *Qualitative inquiry*, 12(2), 219-245.
- 21) Garg, G., & Kothari, C. R. (2014). *Research Methodology. Methods and Techniques*. New Age International Publishers. New Delhi-110002.
- 22) Gerring, J. (2006). *Case study research: Principles and practices*. Cambridge university press.
- 23) Gibson, C. C., & Long, J. D. (2009). The presidential and parliamentary elections in Kenya, December 2007. *Electoral studies*, 28(3), 497-502.
- 24) Gillies, D., & waMutua, M. (1993). *A Long Road to Uhuru: Human Rights and Political Participation in Kenya*. International Centre for Human Rights and Democratic Development.
- 25) Goode, W. J., & Hatt, P. K. (1952). The case study. *Methods of Social Research*, New York: McGraw-Hill, 330-340.
- 26) Hague, R., Harrop, M., & McCormick, J. (2016). *Political science: A comparative introduction*. Palgrave Macmillan.
- 27) Harris, P., & Reilly, B. (1998). *Democracy and deep-rooted conflict: options for negotiators*. International Institute for Democracy and Electoral Assistance.
- 28) Hempstone, S. (1997). *Rogue Ambassador: An African Memoir*. University of South.
- 29) Hornsby, E. E., Morrow-Jones, H. A., & Ballam, D. A. (2012). Leadership development for faculty women at The Ohio State University: The president and provost's leadership institute. *Advances in Developing Human Resources*, 14(1), 96-112.
- 30) Houreld, K. (2017, August 1). The Independent; Kenyan election official was murdered in week before general election, say officials. Retrieved from; <https://www.independent.co.uk/news/world/africa/kenya-election-official-torture-murdered-chris-msando-nairobi-general-election-vote-a7871146.html>
- 31) Hyslop, J. (1999). The imperial working class makes itself 'white': white labourism in Britain, Australia, and South Africa before the First World War. *Journal of Historical Sociology*, 12(4), 398-421.
- 32) Kenya Human Rights Commission. (1996). *Quarterly Repression Report for the Period...: A Kenya Human Rights Commission Report*. The Commission.

- 33) Kenya Human Rights Commission. (2008). *Violating the Vote; A Report of the 2007 General Elections*. Kenya Human Rights Commission.
- 34) Linz, J. J. (1990). The perils of presidentialism. *Journal of democracy*, John Hopkins University.
- 35) Linz, J. J. (1990). The Virtues of Parliamentarism. *Journal of democracy*, John Hopkins University.
- 36) Mainwaring, S., & Shugart, M. S. (1993). *Juan Linz, presidentialism, and democracy: a critical appraisal*. Helen Kellogg Institute for International Studies.
- 37) Moe, T. M., & Caldwell, M. (1994). The institutional foundations of democratic government: A comparison of presidential and parliamentary systems. *Journal of Institutional and Theoretical Economics (JITE)/Zeitschrift für die gesamte Staatswissenschaft*, 150(1), 171-195.
- 38) Mohamed, H. (2017, August 6). Aljazeera Kenyan Elections; the ethnicity factor. Retrieved from; <https://www.aljazeera.com/indepth/features/2017/08/kenyan-elections-ethnicity-factor-170806081143385.html>
- 39) Mosoku, G. (2017, November 18). The Standard Digital; Five people Killed, scores injured as Raila's return turn tragic. Retrieved from; <https://www.standardmedia.co.ke/article/2001260524/five-people-killed-scores-injured-as-raila-s-return-turns-chaotic>
- 40) Mulli, L. (1999). Understanding election clashes in Kenya, 1992 and 1997. *African Security Studies*, 8(4), 75-80.
- 41) Mutua, M. (2008). *Kenya's quest for democracy: Taming leviathan* (p. 247). Boulder and London: Lynne Rienner.
- 42) Nelson, H. D., & Kaplan, I. (1983). Kenya, a country study. *Area handbook series (USA)*.
- 43) Nyabola, N. (2018, Feb 2). Aljazeera; Putting Kenya's media Shutdown in context. Retrieved from; <https://www.aljazeera.com/indepth/opinion/putting-kenya-media-shutdown-context-180202092850790.html>
- 44) Ogot, B. A., & Ochieng, W. R. (1995). *Decolonization & independence in Kenya, 1940-93*. Ohio State University Press.
- 45) Onyango, P. (2018, March 2). The Standard Digital; Uncovering the Standard Group Raid, 12 years later.
- 46) Opalo, K. (2017). Constrained Presidential Power in Africa? Legislative Independence and Executive Rule-Making in Kenya, 1963-2013.
- 47) Owino, A. O., Bennun, L. A., Nasirwa, O., & Oyugi, J. O. (2002). Trends in waterbird numbers in the southern Rift Valley of Kenya, 1991-2000. *Waterbirds*, 25(2), 191-201.

- 48) Peattie, L. (2001). Theorizing planning: Some comments on Flyvbjerg's Rationality and Power. *International Planning Studies*, 6(3), 257-262.
- 49) Pereira, C., & Melo, M. A. (2012). The surprising success of multiparty presidentialism. *Journal of Democracy*, 23(3), 156-170.
- 50) Ribot, J. (2002). *Democratic decentralization of natural resources: institutionalizing popular participation*. Washington DC: World Resources Institute.
- 51) Schumpeter, J. A. (1943). 2003. *Capitalism, Socialism and Democracy*.
- 52) Siaroff, A. (2003). Comparative presidencies: The inadequacy of the presidential, semi-presidential and parliamentary distinction. *European journal of political research*, 42(3), 287-312.
- 53) Svobik, M. W. (2012). *The politics of authoritarian rule*. Cambridge University Press.
- 54) Tellis, W. M. (1997). Application of a case study methodology. *The qualitative report*, 3(3), 1-19.
- 55) Tsebelis, G. (1995). Decision making in political systems: Veto players in presidentialism, parliamentarism, multicameralism and multipartyism. *British journal of political science*, 25(3), 289-325.
- 56) Widner, J. A. (1994). Two leadership styles and patterns of political liberalization. *African Studies Review*, 37(1), 151-174.

