



MASTERS THESIS

**INTERNATIONAL ADMINISTRATION AND GLOBAL
GOVERNANCE**

**The Impacts of Post-election Power-sharing
Agreement on Horizontal Mechanisms for Political
Accountability: A case study of Kenya 2008 to 2013**

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Abstract

Globally, power-sharing has become an international policy approach to mitigating conflict in ethnically or religiously diverse societies. Today, power-sharing is increasingly becoming part of almost every post conflict peace agreement. Recently in 2008, as a result of an election deadlock, Kenya was on the brink of civil war. International mediators through the United Nations mediated and power-sharing, a predominantly post conflict resolution tool, was implemented for the first time to resolve an election deadlock. Subsequently, post-election power-sharing as it has come to be known as, was implemented in Zimbabwe and as at today is being proposed in a number of other countries globally.

Despite the growing debate and support for the use of post-election power-sharing to resolve election deadlocks, there is a conspicuous lack of detailed studies dedicated specifically to the suitability of using such post conflict arrangements in dealing with post election deadlock. Furthermore, political institutions which are the building blocks of good governance are almost entirely ignored in the few existing literature.

This study compliments the few existing studies on post-election power-sharing by bringing to light possible impacts of such arrangements on political institutions, which must be taken into account if such arrangements are to result in good governance. To do this, the study explores how post-election power-sharing affects horizontal mechanisms for political accountability. Primary data from face to face, semi-structured, formal, open ended, interviews with diverse set of experts, as well as analyses of relevant primary and secondary sources were used in the analysis of the study.

Contrary to earlier hypothesis that such arrangements may increase horizontal accountability, the study findings suggests that post-election power-sharing weakens horizontal mechanisms for political accountability by impeding parliaments' ability to effect sanctions on government.

Keywords: Power-sharing, post-election power-sharing, Kenya, parliament, government, political accountability and Grand Coalition.

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List of Abbreviations

ECK	Electoral Commission of Kenya
IDP	Internally Displaced Person
IPU	Inter-Parliamentary Union
KANU	Kenya African National Union
MDC	Movement for Democratic Change
MP	Member of parliament
NAK	National Alliance of Kenya
NARC	National Alliance of Rainbow Coalition
ODM	Orange Democratic Movement
PDP	Peoples Democratic Party
PM	Prime Minister
PNU	Party of National Unity
UN	United Nations
ZANU-PF	African National Union - Patriotic Front

Chapter 1 Introduction

Power-sharing refers to the creation of an inclusive government in which executive power is shared among the major parties in a given conflict or political crises and in recent times has become an international policy approach to mitigating conflict in ethnically or religiously diverse societies. The United Nations through its Department of Political Affairs has played an active role in the promotion of this conflict resolution tool used in bringing stability in times of conflict. In recent years between 1989 and 2004, of the 83 peace agreements or accords signed, 70 included some sort of power-sharing (Brosché, 2009). There is also a continued belief among scholars and policy advocates alike that in societies fragmented by ethnic or religious differences, some sort of power sharing is necessary to ensure an inclusion of every groups in society.

In liberal democracies, elections play a central role in the democratic processes necessary for the continuation of democratic governance. In ethnically and religiously fragmented societies or partially free democracies, elections could become a controversial issue. Globally, elections have often led to violence, for example, in the past two decades there have been violent election-related conflicts in Burundi, Cambodia, Ethiopia, Guyana, Haiti, Sri Lanka, and Zimbabwe (UNDP, 2009) to mention a few. Recently in Kenya, the 2008 post election violence forced the UN and other mediators to push for a power-sharing agreement between the opposition and incumbent candidates. Later the same year, regional mediators pushed for a similar model of governance after similar events unfolded in Zimbabwe. As a result Kenya and Zimbabwe became the first and second cases respectively where power-sharing which is a conflict resolution tool, was used to resolve an election deadlock.

Commentators and senior international actors have in recent times proposed and debated the introduction of similar power-sharing models in countries like Afghanistan, Honduras, Madagascar and Iraq, arguably because of the success achieved in controlling post election violence in Kenya and Zimbabwe. In 2010, the region of Zanzibar for example voted through a referendum to allow rival parties to form a coalition government after elections, so as to stop reoccurring political violence over election deadlock and discontentment (Tendi, 2010). While in Madagascar, a power-sharing deal was reached by Madagascar's main political groups in late 2009 but collapsed before implementation. Despite the increasing prevalence of post-election power-sharing, there is a conspicuous lack of adequate studies dedicated

specifically to the suitability of using such post conflict arrangements to deal with post-election deadlock (Cheeseman and Tendi, 2010).

The popularity of inclusive governance in fragmented societies and democracies is most times based on averting conflict resulting from discontent with political or economic segregation. Inclusiveness remains an important component of good governance but so is accountability as well. This is evident in the World Bank's definition of governance, which is the *"process and institutions through which decisions are made and authority in a country is exercised resting on the values of inclusiveness and accountability"* (Grindle 2004:525). This leads this study to the belief that while guaranteeing inclusiveness with the implementation of post-election power-sharing, accountability should equally be given attention.

This study explored how power-sharing when used to resolve post election deadlocks will affect horizontal mechanisms for political accountability. Using Kenya as a case study, a series of semi-structured, formal, open ended expert interviews with diverse professionals relevant to the issue were conducted during a two month field study in Kenya. Data from the informant interviews together with other reliable primary and secondary data were analyzed using content analysis.

The findings of the research suggests that post-election power-sharing weakens horizontal mechanisms for political accountability, contrary to earlier postulated hypothesis by Jeremy Horowitz and Carl LeVan that post-election power-sharing may increase horizontal accountability, because of the political competition that still exist and also the mutual veto held by both principals (i.e. heads of state). Furthermore, the study findings suggest that post-election power-sharing weakens horizontal mechanisms for political accountability by impeding parliaments' ability to effect the sanction stage of accountability processes. Which according to Derick Brinkerhoff, failing to complete both process of accountability of answerability and sanction, flaws accountability (Brinkerhoff, 2001;2003).

Therefore, with the above findings, it is important that post-election power sharing advocates consider deeply the political accountability implications when considering power-sharing as an option in an election deadlock.

1.1 Background and Purpose

Power-sharing has over the past two decades become an increasingly common phenomenon in resolving disputes especially in Africa where considerable number of states are deeply

fragmentized by ethnicity and religion. Power-sharing has often been used as a conflict resolution tool, as for example in cases like Angola, Burundi, Serra Leone, Rwanda, Somalia and South Africa (Cheeseman, 2011)..

The success and structure of power-sharing varies. In some countries like Burundi and New Zealand, power-sharing has become an institutionalized form of governance in such a way that political offices are fractionized to accommodate different minority groups in order to ensure an inclusive political sphere. While for others it is established as a temporal measure aimed at ensuring stability and preventing further loss of lives to conflicts.

The United Nations Department of Political Affairs monitors political developments globally in order to detect and devise effective preventive measures to possible crises before they turn violent. Included in this UN department is a power-sharing expert, who constantly guides the UN on power-sharing related issues. It was through this department that the UN assisted Kenya in the 2008 mediation which resolved Kenya's 2008 electoral crisis and subsequently implemented post-election power-sharing in the country. The UN's involvement in the promotion of power-sharing as an international conflict policy from an historical perspective is documented in Rwanda's 1993 "*Protocol of Agreement on Power-sharing within the Framework of a Broad-based Transitional Government between the Government of the Republic of Rwanda and the Rwandese Patriotic Front*" where the UN played an active role in ensuring the peace agreement was signed. Since then a similar approach has been promoted worldwide by the UN as a conflict prevention and resolution tool but never before has it been used in a post election deadlock situation.

The power-sharing introduced in Kenya is somewhat new because unlike in the past where power-sharing was mainly used to end civil wars, Kenya witnessed violent conflict but no civil war. The 2007 election deadlock and violence prompted international mediators, chaired by former United Nations Secretary General Kofi Annan to push for a power-sharing agreement between incumbent President Kibaki of PNU and Raila Odinga of ODM. The agreement resulted in the creation of the office of the Prime Minister for Odinga, while Kibaki remained as president. The agreement split executive power, both by creating a second executive office, but also dividing cabinet ministers equally among Kenyan's main political parties. The consent of ODM and PNU, which are the two major political parties with the largest representation in parliament, is required for virtually every major action and decision of government. Kenya became the first case where a predominantly post-conflict resolution

(power-sharing) tool was implemented in a post-election or election deadlock situation. Kenya was swiftly followed by Zimbabwe when election related violence induced regional mediators to push for a Kenya styled power-sharing model. South Africa's President Thabo Mbeki and Kenya's ODM leaders led the negotiations in Zimbabwe.

Power-sharing or Grand Coalition Government in Kenya between 2008 to 2013 was aimed at serving several important purposes. Arguably, the most important two were to put an end to post election violence and also serve as a transitional phase towards the conduct of new and credible presidential elections. Today, we know these two aims were fulfilled but it is the interest of this thesis to examine the impacts of this form of governance structure on the horizontal mechanisms for political accountability because accountability of government is one of the most important recipe for good governance. Also, accountability systems are dependent on the institutional design of their administrative context, therefore structural changes are therefore likely to influence accountability (Erkkilä, 2004) and how this change of governance structure will impact political accountability is what interests this thesis.

Power-sharing research in the past has often focused on the conflict and ethnic angle and *"till date extensive research dedicated to the impacts of post-election power-sharing is almost absent in literatures and there have been little debate if such post conflict arrangements is suitable for dealing with several challenges associated with post-election deadlock"* (Cheeseman and Tendi, 2010:205). There is also an almost absence of the possible impact of post-election power-sharing on political institutions, hence this research takes the bold but yet complex step in examining the possible institutional impacts of introducing a conflict resolution tool in a democratic system.

The Parliament, which is the political institution with constitutional power for executive oversight, will be the object of study. Hence, the thesis will examine what kind of impacts the presence of both parties in government has on horizontal political accountability mechanisms.

1.2 Significance of the Study and Research Question

Post-election power-sharing is a new phenomenon and Cheeseman and Tendi note that *"the conditions necessary for power-sharing to be effective; and the likely consequences if these conditions has been largely superficial"* (Cheeseman and Tendi, 2010:205). Furthermore, there has been little debate on if such post conflict arrangement is suitable for dealing with several challenges associated with post election deadlock. (Ibid, 205). Hence, this study contributes to post-election power-sharing discourse by empirically examining how post-

election power-sharing affects political institutions and mechanisms for political accountability using Kenya's experience as a case study.

The research question to guide this research is: *How does post-election power-sharing affect horizontal mechanisms for political accountability?*

Unlike previous studies which have solely focused on the impacts of post-election power-sharing on ethnic conflict or cost of governance, this study contributes to post-election power-sharing discourse by empirically investigating how power-sharing impact institutions, issues which have often been ignored in literature. The lack of interest in institutional impacts of post-election power sharing is difficult to understand, given that post-election power sharing as seen in Zimbabwe and Kenya is an institutional change in itself. Apart from the absence of literature on the possible institutional impacts of post-election power-sharing, literature on the impacts on governance and accountability has been speculative.

Hence, this study hopes to use the earlier stated research question to highlight the possible institutional impacts of post election power sharing by applying existing theoretically informed definitions of accountability, using Kenya as the case study.

1.3 Thesis Outline

The rest of this paper shall proceed as follows: the next chapter will provide an overview of the political history of Kenya as this will lead to a better understanding of issues to be discussed later in the thesis. This will be followed by chapter three which will be dedicated to theoretical discussions and literature review, in this chapter the definitions of various concepts will be made to give a clear understanding of the phenomenon. Chapter four will be dedicated to methodological approach and design, while chapter five will deal with data analysis and interpretation. Lastly, chapter six will conclude with recommendations for future studies.

Chapter 2 Political History of Kenya

This chapter will discuss the political history of Kenya, in order to ensure a clear understanding of issues that will be discussed later in this paper.

2.1 Kenya at a Glance

In 1999, scientific studies by Meave Leakey and his team discovered over 230 skeletons of early human beings near lake Rudolf in northern Kenya leading to the suggestion that Kenya was the cradle of humanity from which descendents moved out to populate the world (BBC News, 2013). Geographically, Kenya lies across the equator in east-central Africa and on the coast of the Indian Ocean. Kenya share border lines with Somalia, Ethiopia, Tanzania, Uganda, and South Sudan. Kenya has numerous seaports along the Indian Ocean but the



Figure 1 Map of Kenya
Source: 1 CIA World Factbook

Kilindini Harbor in Mombasa is the only international seaport in Kenya, with significant economic importance to Kenya and its land locked neighbors.

The total population of Kenya is estimated at 41 million as of 2011, Kenya is religiously and ethnically diverse with more than 40 ethnic groups. Religious beliefs in Kenya includes different forms of Christianity, Islam, Bahá'í Faith, Buddhism and indigenous belief systems.

Kenya became a colony in 1920 but nationalist movements which began in the 1940s led to armed rebellion by the Mau Mau movement of Kikuyu ethnic group between 1952 and 1956. On December 12, 1963, Kenya achieved full independence and nationalist leader Jomo Kenyatta became its first president. Kenya is a democratic republic government with the President as chief of state and head of government. The president is assisted by a vice president and cabinet members, together they form the executive branch. Kenya's legislative

assembly until 2013 was a unicameral National Assembly consisting of 224 members of which 210 are elected through popular vote for five years, 12 nominated members are appointed by the president but selected by political parties on the basis of proportional representation, and 2 ex-officio members. The Kenya judiciary consists of several courts with the High Court and Court of Appeal as head. The Chief justice and the judges of the High Court and Court of Appeals are appointed by the President.

2.2 Understanding Kenya's Democratic History to Post-election Power-sharing

Kenya became an independent country in 1963 from Great Britain and from independence Nationalist leader Jomo Kenyatta was president until his death in 1978. Upon the death of Jomo Kenyatta, his Vice President Daniel Arap Moi became Kenya's second post independence president. Moi as President favored his own Kalenjin group to the detriment of the previously dominant Kikuyu ethnic group (Freedom House, 2012). Kenya was entrenched in a monolithic, one-party system of government which denied fundamental rights to its citizens until 1992 (DFID, report), when civil unrest and international pressure forced President Moi to hold multiparty elections. The international pressure on president Moi's to conduct multiparty elections was as a result of the demise of the cold war. The end of the cold war, meant previously ignored brutal political tactics used to contain the spread of communist ideology among allies were no longer tolerated by western leaders.

Moi and his KANU party won the elections in 1992 using political repression, state patronage, media control, and fraudulent electoral procedures. Moi's KANU continued the suppression of civil society groups and fostered politically motivated ethnic violence by KANU's supporters predominantly Kalenjin's against the Kikuyu and Luhya ethnic groups who at that time supported pro-opposition groups (ARTICLE 19, 1998). These undemocratic brutal political tactics fostered corruption, impunity and ethnic divisions among the Kenyan people (Ibid, 1). Nevertheless, the birth of multiparty elections did not stop the various abuses by government loyalties which ensured Moi won again 1997 but the political space continued to open, democratic values continued with louder opposition voices and political institutions developing. This democratic growth led to Moi's involvement in what is today known as the Goldenberg scandal. Moi's involvement in this scandalous gold export scheme which is estimated to have cost Kenya about 10 percent of her annual Gross Domestic Product (GDP) resulted in him being constitutionally barred from running in the 2002 election (BBC News, 2004). Consequentially, since Moi was barred, a coalition of various political parties

involving NAK and NARC wrestled power from KANU and Mwai Kibaki became Kenya's third president. The early stages of Kibaki's leadership seemed promising but fragility of the governing coalition, terrorism, fiscal constraints and a failed constitutional reform moved focus from economic growth to political instability resulting to power tussle among the different governing coalition and as a result the polity began to heat up running into the 2007 elections. Prior to the elections, the two main parties reformed into large coalitions namely the Orange Democratic Movement (ODM) led by Raila Odinga and Party of National Unity (PNU) led by Kibaki.

In a close and bitterly contested December 28 2007 poll, the ODM coalition took the largest number of seats in Parliament and exit polls pointed to opposition Presidential candidate Raila Odinga (ODM) becoming the next Kenyan President. But surprisingly, the Electoral Commission of Kenya (ECK) declared the incumbent President Mwai Kibaki of the Party of National Unity (PNU) winner by a margin of 231,728 votes. Within an hour after the announcement, in an effort to quickly legitimize himself, a swearing in ceremony was held and President Kibaki was sworn in for a second five-year term (Dlamini, 2010). Opposition leader Raila Odinga of ODM and his supporters rejected the declared victory and swearing in of Kibaki, alleging it was the result of rampant rigging and manipulation of tallied votes, a claim which was similarly confirmed by international and local election observers. As a result, protest by the opposition began across the country, the protest and violence led to targeted ethnic attacks which was initially directed at the Kikuyu people, an ethnic group to which Kibaki belongs. These led to counter ethnically motivated attacks on people of Kalenjin origin and the widespread ethnic violence put Kenya on the brink of a civil war.

During the protests, Kenyan security services did not help matters, as protesters were met with brutal confrontations which sometimes resulted in government forces shooting down protesters live on national TV leading to further violence as security forces also became targets because protesters believed they were on the side of the government (KTN, 2008).

International and regional mediators waded into the crisis by seeking a political solution that would bring an end to the conflict which has already seen thousands of people either lose their lives, be displaced or have their homes and properties destroyed. The African Union president, President John Kufuor of Ghana at first tried to bring the two parties together as part of an AU initiative but neither were interested in any face to face discussions on the issue. The international and regional community stepped in with a delegate headed by former

United Nations Secretary Kofi Annan. Mr. Kofi Annan was able to bring PNU and ODM to discuss political solutions to the disputed presidential elections and a power-sharing deal which would include ODM as an equal partner in government was proposed.

By February 28, approximately 1,500 people had been killed, and over 300,000 displaced, negotiations between the government and opposition, which lasted more than a month, resulted in Kibaki and Odinga signing the National Accord and Reconciliation Act, saw the two leaders form a grand coalition government, with Kibaki of PNU remaining as President and Odinga of ODM holding a newly formed office of the Prime Minister. Both the president and PM were referred to as principals in the agreement, meaning there were equal partners (hence, the word principal refers to either the President or PM in this study). Upon the pronouncement of the agreement, relative peace returned to Kenya, although there were still pockets of violence and demonstration across the country.

On March 18, 2008 the Kenyan National Assembly passed the Constitution of Kenya (Amendment) Bill which constitutionally established the posts of Prime Minister and Deputy Prime Ministers. This was followed by another law stipulating the offices in the new government and detailing the terms of the power-sharing arrangement. This paved a way for the formation of the new government that resulted in the largest cabinet in the history of post-independence Kenya. The cabinet consisted of 40 ministers and 52 assistant ministers (Mynott , 2008), meaning a total of 92 MPs from the elected 210 were in government.

This bloated government, which was estimated to cost about \$1 billion a year, was designed to balance the powers of Kibaki, Odinga and their loyalists (Nadgrodkiewicz, 2008). Apart from the cost of governance associated with the grand coalition governance, Jacqueline Klopp argues that *“since both parties include people guilty of corruption and violence, the grand coalition creates a common interest in perpetuating impunity and opposing the forces of accountability and transformation”* (Klopp, 2009: 144).

Across Kenya and the world in general, uncertainty raged over the possible impacts of this new paradigm despite its relative success in ensuring stability, which attracted commendation from the international community. The peace brought to Kenya by the power-sharing agreement led to the creation of a power-sharing government in Zimbabwe just months after its implementation in Kenya when similar election related dispute and violence pushed Zimbabwe towards civil war. Tsvangirai of the Movement for Democratic Change (MDC)

and President Mugabe of the Zimbabwe African National Union - Patriotic Front (ZANU-PF) formed a unity government and again like Kenya, relative peace returned to Zimbabwe.

These two cases bring to light the growing demand and support for the use of power-sharing in election disputes. In 2010, the region of Zanzibar for example voted through a referendum to allow rival parties to form a coalition government after elections, so as to stop reoccurring political violence over poll results (Tendi, 2010). Commentators and senior international actors also debated "*the introduction of unity governments in cases as diverse as Afghanistan, Honduras, Iraq, and Madagascar*" (Cheeseman and Tendi, 2010:205). The growing use and demand for post-election power-sharing raises concern of what impacts such structures would have on democratic principles and values.

The next chapter will be dedicated to the definition of relevant concepts, theoretical discussions and existing literature on post-election power-sharing.

Chapter 3 Theoretical Discussions and Literature Review

In this chapter the theoretical and conceptual definition of power-sharing will be discussed before existing literatures on the concept are reviewed. Accountability will also be defined in its various context and in doing this, the thesis hopes to establish the gaps which this paper hopes to fill.

3.1 Variations, Approaches and Conceptual Understanding of Power-Sharing

In recent times, power-sharing has become a political solution for countries where ethnicity, religion, or race undermines democratic competition because power-sharing conceptually ensures all social groups are accommodated within government using a wide range of institutions (Horowitz, 2009). Timothy Sisk defines power-sharing

“as a set of principles that, when carried out through practices and institutions, provide every significant identity group or segment in a society representation and decision-making abilities on common issues and a degree of autonomy over issues of importance to the group” (Sisk 1996: 5).

This is a very broad definition of power sharing as it encompasses the different variations and theoretical approaches to power-sharing. Power-sharing is a complex concept and therefore analyzing its role in conflict resolution or governance could be a difficult task but nevertheless this thesis will make an attempt. But to attempt doing this, a clear understanding of the *modus operandi* and conceptual approaches of power-sharing adopted in individual case studies needs to be clearly understood. Anna Jarstad, states that to be able to analyze the role and consequences of power-sharing, it is important to distinguish power-sharing based on its *“modus operandi”* and approaches (Jarstad, 2009:46). Before discussing the different approaches of power-sharing, it is important that the variations based on the *modus operandi* is understood.

Anna Jarstad clearly highlighted these variations in *modus operandi*. According to her, power-sharing could exist in the context of conflict resolution, as a mechanism geared towards ending a civil war or alternatively in stable democracies. For example, implementation of a power-sharing agreement among major warring factions brought an end to conflicts in countries such as Sierra Leone and Liberia, which were deeply engulfed in a civil war, while in stable democracies, power-sharing is evident in the allocation of quotas for Maori in New Zealand and the canton system in Switzerland (Ibid, 46).

The second variation could be in the form of an informal, electoral law, or agreement, aimed at enlarging the base for governance. In South Africa for example, during the transitional period from apartheid, electoral law ensured that all parties that gained enough votes were guaranteed inclusion in government (Jarstad, 2009).

The third and last variation is the use of power-sharing as a permanent governance structure versus short-term strategy. In Burundi for example, the constitution permanently stipulates quotas for ethnic representation in political parties in its democratically elected National Assembly. On the other hand, temporal power-sharing was used in Democratic Republic of Congo in 2002, Liberia in 2003 and in South Africa, power-sharing facilitated transition from apartheid to democracy. Colombia experienced power sharing between 1958 to 1974 (Ibid,7-8,46-47). Kenya joined these countries to experience temporal or transitional power-sharing when it returned to democratically elected government in March 2013 after about 5 years of power-sharing.

Sometimes, power-sharing in a country may have more than one modus operandi in the sense that it may be implemented during a civil conflict to quell violence in a non democratic or unstable democracy; serve as a transitional tool (time limited); and could lead to a structural legal or informal governance system which will ensure an inclusive democratic governance.

After having differentiated the various modus operandi of power-sharing above, power-sharing could be of different conceptual approaches depending on its modus operandi as discussed above. The right approach (matching problem to solutions) is important if the desired goals are to be achieved. To this regard, power-sharing is conceptually differentiated into consociational, centripetalism (or integrative approach) and power dividing approaches.

The consociational model which is the most popular of all three, was developed by Arend Lijphart in 1968 in his work *"The Politics of Accommodation: Pluralism and Democracy in the Netherlands"* which was built upon by his subsequent works. This model of power sharing is sometimes called consociational democracy or consensus democracy and is built around elite cooperation. Consociationalism believe that democracy be built around differences by accommodating all different groups in society is a pluralist and realist solution for conflict resolution in fragmented societies (McGarry and O'Leary In Tracol, 2013: 2)

Arend Lijphart defined consociational democracy as

"government by elite cartel designed to turn a democracy with fragmented political culture into a stable democracy" (Lijphart. 1969:216).

Lijphart in his works argue that the consociational model empirically explains democratic stability in fragmented European societies like the Netherlands, Austria, Belgium, and Switzerland because the stability existing in these countries are results of the ability of political elite's to deal with problems associated with societal fragmentation.

The consociational model of power-sharing has four principles namely; grand coalition, group autonomy, mutual veto rights to all groups and proportional representation in government (Lijphart, 1993: 188-9).

Grand Coalition: is the core principle in the consociational model of power sharing and it guarantees all political leaders of all significant groups in fragmented societies a place in the executive arm of government through the distribution of executive portfolios among them.

Mutual Veto: Mutual veto in a consociational model of power sharing gives individual segment or groups of society the power to veto decisions. This ensures that their rights and interests are protected which also ensures, they on their part can't force themselves on the other parties which invariably guarantees consensus in decision making.

Group Autonomy: Group autonomy or segmental autonomy as it is sometimes called is group freedom to its own affairs which could be territorial, cultural and civil affairs institutions such as schools etc.

Proportional Representation: according to Lijphart guarantees that all groups are proportionally involved in the decision making process.

According to Lijphart, the essential two components of consociationalism are grand coalition and cultural autonomy, while the other two components are aimed at strengthening power-sharing (Zuhair, 2002).

Critics of the consociational approach such as Courtney Jung and Ian Shapiro say this approach is undemocratic and promotes ethnic conflict because the consociational model does not allow for oppositions in democracy and every functioning democracy requires opposition (Jung and Shapiro, 1995). Rudy Andeweg; and Rothchild and Roeder (2005) agree with Jung and Shapiro that consociationalism reduces the quality of democracy by reducing competition (Andeweg, 2000; Rothchild and Roeder, 2005).

The centripetalist, or integrative approach of power-sharing was developed by Donald L. Horowitz and is built around the logic that democracy or government is structured around

ethnic groups, with every group actively represented and involved in the democratic setup. Centripetalist as a power-sharing model creates a decentralized government that disperses power to multiple points and does not focus on promoting ethnically-based autonomy. This arrangement is seen in Burundi where different groups are allocated guaranteed spots in government.

Power-dividing on the other hand seeks *"to remove the most divisive issues from the jurisdiction of the government and reserve these decision-making powers to individuals and civil society"* (Roeder, 2011:2).

A common feature in all three approaches of power sharing is that they all aspire to create an inclusive government either through the state or civil societies (Jarstad, 2009). In as much as this similarity exist, power-dividing differs from the other two in the sense that its main strategy is designing power-sharing *"institutions to rely on civil society rather than the state as much as possible"* in order to *"provide the cultural needs of individuals belonging to different ethnic and religious groups"* (Roeder, 2011:3). Power-dividing is the least popular among the three forms of power-sharing and hence in most literature the word power-sharing is synonymous with the integrative approach and consociational models.

For clarity purposes, the power-sharing adopted in Kenya is not based on ethnic autonomy, ethnic representation in government or decentralization and so do not follow the principles of the integrative or power dividing approach respectively. The power-sharing deal agreed in Kenya is similar to the consociational model because it theoretically consists of two components of Lijphart's consociational model of power-sharing (Jarstad, 2009) of grand coalition and mutual veto as will be seen later in this chapter. Hence this thesis adopts Lijphart's consociational model of power-sharing and any further use of the word power-sharing in this thesis refers to Lijphart's consociational model.

Nic Cheeseman's definition of power sharing as *"the creation of an inclusive government in which cabinet posts, and hence executive power, shared by the major parties"* (Cheeseman, 2011:339) seem most appropriate in the Kenyan case. It may also be important to note that, the modus operandi of the Kenyan power-sharing is two sided in the sense that it was established primarily as a conflict resolution mechanism to stop the growing violence and as a temporal measure to allow for future elections thereby encompassing two from Anna Jarstad three variations of power-sharing earlier described. Furthermore, going by its conflict resolution success and transitional success in Kenya, it is fair at this point to say that power-

sharing in Kenya fulfilled its modus operandi but the big unanswered question is what impacts did it have on institutions, governance and the citizens it was meant to protect.

3.1.1 Post-election Power-sharing in Kenya

On March 18, 2008 when the Kenyan National Assembly passed the Constitution of Kenya (Amendment) Bill which constitutionally established the posts of Prime Minister and Deputy Prime Ministers, as agreed upon by the power-sharing deal previously signed by PNU and ODM presidential candidates in the presence of the African union President and former UN secretary General , power-sharing was established in a new territory. Before Kenya, never before has power-sharing been used to resolve post election deadlock or disputes and since then power-sharing has been proposed in almost every election disputes in new or fragmented democracies.

The key points of the deal which gave birth to what is today remembered as Grand Coalition Government in Kenya are as follows:

1. *"The newly created post of the prime minister will have the authority to co-ordinate and supervise the execution of government functions.*
2. *The prime minister will be an elected member of parliament and the parliamentary leader of the largest party in the National Assembly, or of a coalition if the largest party does not command a majority in parliament.*
3. *Two deputy prime ministers to be appointed, one to be nominated by each member of the coalition.*
4. *The prime minister and deputy prime ministers can only be removed if the National Assembly passes a motion of no-confidence with a majority vote.*
5. *A cabinet to consist of a president, vice-president, prime minister, two deputy prime ministers and other ministers.*
6. *The removal of a minister of the coalition will be subject to consultation and agreement in writing by the leaders.*
7. *The composition of the coalition government will at all times take into account the principle of portfolio balance, and reflect the parties' relative parliamentary strengths.*
8. *The coalition will be dissolved if the current parliament is dissolved; or if the parties agree in writing; or if one coalition partner withdraws from the coalition"*
(Government of Kenya, 2008:1-2).

Earlier in this paper I stated that the post-election power-sharing in Kenya is conceptually close to the consociational model of power-sharing. Evident in the key points of the agreement above is that it is the creation of a grand coalition and parties to the agreement have mutual veto rights. This is the closest, the Kenyan power-sharing could be to any of the traditional approaches of power-sharing. Furthermore, this agreement served as the binding contract to which all actions of government was carried out, although there were some disagreements of the legal meaning of some of the points during the course of the eventual five year life span. This power-sharing agreement is the independent variable for this study and variables for the analysis of the causal relationship between post-election power-sharing and political accountability will be drawn from the key points of the agreement.

Given the scope of this study, key points of this agreement will be used as microscope to view political accountability in Kenya from 2008 to 2013. From above the selected key points to be used are;

- *The removal of a minister of the coalition will be subject to consultation and agreement in writing by the leaders.* This means that the President and PM must agree before the removal of a minister constituting a mutual veto and puts parties to the agreement at equal par in all decision making which is in accordance with the first component of Lijphart's consociational model.
- *The composition of the coalition government will at all times take into account the principle of portfolio balance, and reflect the parties' relative parliamentary strengths.* This creates a grand coalition and invariably and given that ODM and PNU constitute majority of the parliamentary seats, they are bound to constitute majority in government.

It will be extremely important and interesting to see how these two clauses will impact parliamentary mechanisms for political accountability (oversight) in Kenya. The justification for using these two clauses is that they are the most important points in the power-sharing agreement and also those are the areas where the Kenya power-sharing is most similar to Arend Lijphart's consociational conceptual model of power-sharing as earlier stated in this paper.

3.1.2 Existing Literature on the Possible Impacts of Post-election Power-sharing

Conceptually the existence of power-sharing in pluralized societies has long been advocated as means to ensuring all groups are represented in governance. Following the 1994 genocide in Rwanda, Rwanda's government stated that "*only a national and regional environment based on all inclusive governance*" would prevent a recurrence of such ugly incidence (Mazimpaka 2007 in LeVan 2011).

In practice, as mentioned in the previous section, power-sharing with different conflict mitigating modus operandi has been successful globally as seen in cases like South Africa but in some countries such as Rwanda discontent of power-sharing agreement led to a civil war. It is not the interest of this thesis to evaluate why power-sharing was successful in some countries and not successful in others but it will be good to note that, Nic Cheeseman suggests that "*the quality of the relations among elite actors and the history of violence in a given country are two of the most important factors that influence*" the outcome of power-sharing (Cheeseman 2011:340).

More specifically, this thesis is interested in post-election power-sharing as seen in Kenya and Zimbabwe. Some scholars have made theoretically informed predictions that power-sharing resulting from election deadlocks may create moral hazard problems because it eliminates the oversight role played by opposition parties. Which is expected to lead to increased mismanagement (Horowitz, 2009) and consequently reduce the overall quality of democracy as previously envisaged by critics of consociational model (Schendelen 1984; Lustick 1997). This is because power-sharing eliminates oversight role of opposition parties by including opposition parties in government which invariably allows government to carry out its desires without major criticism.

Empirical studies focused on the impacts of post-election power-sharing is almost absent, the existing few do not focus on institutions. Jeremy Horowitz's paper "*Power-Sharing in Kenya*" examined Kenya's experience with power-sharing where he evaluated whether the power-sharing agreement in Kenya has had positive effects on inter-communal relations and whether it has negatively affected the quality of governance in Kenya. Horowitz's paper was inconclusive and uncertain on what impacts power-sharing would result to because the publication was published about one year into the power-sharing agreement in Kenya. Two major theoretically informed predictions in his findings which he called "concerns" were that the temporal nature of power sharing implemented in the case will result in political

competition for future elections on the basis that parties to the agreement will attempt to outdo each other by exposing misconducts of each other in order to show the electorates that they deserve to be elected in future elections and that will increase horizontal accountability. He based this on the argument that since ODM and PNU will be adversaries in the next election, ODM will attempt to demonstrate and enhance its reputation in the next election (Horowitz, 2009).

Carl LeVan in his paper "*Power Sharing and Inclusive Politics in Africa's Uncertain Democracies*" supports Horowitz's argument from a different angle with his argument that post-election power-sharing may lead to increased horizontal accountability because of multiple power players associated with the power-sharing agreement (LeVan, 2011). Carl LeVan also notes that when power sharing is used in flawed or deadlock elections, the negative effects is that it rewards elites at the cost of democracy, affects government performance by undermining vertical relationships of accountability and creates conditions for policy gridlock. His findings suggests that the solution to these problems can be controlled by sunset clauses in the agreements, enforcing even handed prosecution of human rights violations, and strengthening checks on executive power.

The success of the modus operandi of power-sharing in Kenya has earlier highlighted in the previous section is bound to increase the popularity of post-election power-sharing as a policy approach to ending election related conflicts and deadlock. But yet "*till date extensive research dedicated to the impacts of post-election power-sharing is almost absent and there have been little debate if such post conflict arrangements is suitable for dealing with several challenges associated with post election deadlock*" (Cheeseman and Tendi, 2010:205). The few contributions to post-election power sharing have been superficial, light on empirics and predominantly speculative. Also, to the best of my knowledge, as at the time of this research there is no in-depth study on the impacts on governance, accountability or institutions.

In order to fill the vacuum of uncertainty above and complement existing literature, this thesis will test how post-election power-sharing in Kenya would impact horizontal political accountability.

3.2 Accountability

Today, in governance literatures the issue of accountability has taken center stage.

Historically, accountability as a concept was synonymous with finance but has lately moved far beyond that into becoming a symbol of good governance (Mulgan, 2003 in Erkkilä , 2004)

Globally, accountability is now regarded as one of the most important characteristics of a functioning democracy and a means through which governments legitimize their actions. The recent increase in accountability debate is as a result of the need to promote good governance and consequently, accountability now features in the definition of governance. The World Bank definition of governance which is widely used in most governance literature defines governance to be the *"process and institutions through which decisions are made and authority in a country is exercised resting on the values of inclusiveness and accountability"* (Grindle 2004:525).

Accountability is also a feature in Worldwide Governance Indicators (WGI) aggregate indicator used in measuring good governance. Another reason for the growing interest on the issue of accountability in governance *"is largely explained by the rise of new governance models which are seen to challenge the traditional mechanisms of accountability"* (Erkkilä, 2004:2) such as power-sharing. The increased interest in accountability and rise of new governance models as resulted in the definition of the term itself becoming more ambiguous (Ibid, 2). In contemporary political and scholarly discourse accountability often serves as a conceptual umbrella that covers various other distinct concepts, such as transparency, efficiency, responsiveness, and integrity.

The definition of accountability varies across authors, different authors define accountability in different ways (Mainwaring and Welna, 2003), it could be used to qualify positively a state of affairs or the performance of an actor (Bovens ,2007). In general terms, accountability means holding someone responsible for his or her actions (Blair, 2000) or a *"process of being called to account to some authority for one's actions"* (Mulgan, 2000:555), or a procedure for giving account.

Accountability is amorphous in nature and as Richard Mulgan puts it, accountability is a situational concept which requires specification of what context accountability is being demanded. It *"operates along the axes of who is accountable?; for what is one accountable?; to whom is one accountable?; and how can that accountability be enforced?"* (Mulgan, 2002:3).

Accountability could become clearer by differentiating the different stages in the process. Sometimes accountability is often assumed to be answerability alone but answerability is just a stage in the process to accountability. Accountability as a process consists of two stages, namely; answerability and sanctions. The first stage is answerability and it obliges the agent to answer questions or give explanations for an action or decisions to the principal (Schedler, 1999). This is an informatory and explanatory stage which is sometimes referred to as transparency (Brinkerhoff, 2001). Sanction is the second stage of the process and it is the use and recommendation of punishment for wrongful actions or behavior uncovered through answerability (Ibid, 4). Derick Brinkerhoff states that *"the availability and application of sanctions for illegal or inappropriate actions and behavior uncovered through answerability constitute the other defining element of accountability. The ability of the overseeing actor(s) to impose punishment on the accountable actor(s) for failures and transgressions gives "teeth" to accountability. Answerability without sanctions is generally considered to be weak accountability"* (Brinkerhoff, 2003:5).

These stages of accountability in its different forms *"seeks to protect different values, and are accompanied or context by varying challenges"* (Lindberg, 2013:1). This study focuses on both answerability and sanction processes, responsibilities and powers of Parliament, hence later in the paper, parliamentary tools and mechanisms will be grouped according to the stages of accountability process it enhances.

The process of accountability described above can be distinguished into different types based on nature of the forum, actor, conduct and obligation. The different types of accountability on the nature of forum are public, political, legal, administrative, professional and social accountability. While corporate, hierarchical, collective, accountability are the different types of accountability based on the nature of the actor, financial, procedural and product accountability are the types of accountability based on the nature of the conduct (Bovens, 2007).

The next subsection will discuss political accountability which is a type of accountability based on the nature of forum according to Bovens (2007). Political accountability is the type of accountability mostly associated with governance and which is also the focus of this thesis.

3.2.1 Political Accountability

Deputy Secretary-General Asha-Rose Migiro in her remarks to the joint hearing with the Inter-Parliamentary Union (IPU) and the General Assembly, at UN Headquarters in 2011 emphasized that political accountability forms the cornerstone of modern democracy, it *"is central to meeting the generational challenges of today's world"* because *"Poverty, crime and violence thrive in States that are not accountable"* (UN News, 2011). Political accountability which is sometimes called democratic accountability deals with institutions, procedures, and mechanisms that ensure government oversight, deliverance of electoral promises, enhance public trust, and responds to societal needs and concerns. Political accountability can further be differentiated into vertical accountability, diagonal accountability and horizontal accountability.

Guillermo O'Donnell defined horizontal accountability as

"the existence of state agencies that are legally enabled and empowered, and factually willing and able, to take actions that span from routine oversight to criminal sanctions or impeachment in relation to actions or omissions by other agents or agencies of the state that may be qualified as unlawful" (O'Donnell, 1999b: 38).

Parliament is the horizontal institution within a democratic setup that has the power to hold the executive accountable because it has the formal authority to demand explanations, recommend sanctions for any public official and impose penalties on the executive through internal checks and oversight processes of government actions. The Parliament is aided in its oversight responsibilities by the provision of information and findings via reports and evaluation from audit institutions, anti-corruption commissions, ombud office and human rights institutes (World Bank, 2007).

Vertical accountability on the other hand occurs when citizens and their associations play direct roles in holding the executive to account through formal institutional channel such as elections or informal channels such as of lobby groups and civil society organizations. Accountability could also be diagonal when it operates between the vertical and horizontal accountability channels. This occurs when citizens are engaged directly with horizontal accountability institutions by engaging, contributing directly and evaluating government policies (Ibid,1-3).

Horizontal mechanisms of political accountability is what this thesis is interested in because elections which is the channel for direct vertical accountability occur periodically and their

effectiveness at securing vertical accountability is unclear, especially given the inchoate party systems; high voter and party volatility; and ethnic fragmentation in most African countries (O'Donnell, 1998). The time constraint and scope of this thesis will not also permit the elaborate testing of diagonal or vertical accountability.

Although, because this thesis focuses on the testing the answerability and sanction process of accountability, there will be some diagonal element but the thesis mainly focuses on the horizontal mechanisms. This is because the parliament function as a source of horizontal accountability is sometimes aided by diagonal horizontal actions such as citizens and civil society groups seeking the support of elected representatives to redress grievances and intervene in the case of inappropriate or inadequate action by government, through civil society reports and petitions.

The next subsections will discuss how the Parliament functions as an horizontal accountability institution through its tools and mechanisms before a discussion of role of opposition politics in Parliament.

3.2.1.1 Parliament and Horizontal Accountability Responsibilities

The roles of the Kenyan parliament like any other parliaments in liberal democracy has three major roles which are legislation, representation of constituents and executive oversight. This study is interested in oversight of the executive arm of government because it is through these constitutionally empowered role that parliament ensures the executive arm of government is accountable for its actions. In liberal democracies, the parliament conducts oversight and hold government accountable using different tools and mechanisms to ensure transparency in government; uphold the rule of law; evaluate government policies; and hold the executive accountable through recommendation and sanction powers.

Hironori Yamamoto defines Parliamentary oversight as “*the review, monitoring and supervision of government and public agencies, including the implementation of policy and legislation*” (Yamamoto,2007:9). In line with this definition, the oversight responsibility of parliament is to detect and prevent illegal and unconstitutional conduct by the executive, conduct financial oversight to prevent waste and misappropriation and ensure transparency in government actions.

The parliament of Kenya which is the case study of this research is constitutionally equipped with a number of tools and mechanisms for government oversight. The parliament conducts

its oversight responsibilities through internal and external mechanisms. External mechanisms such as Auditor General Office, Office of the Controller of Budget, Ombudsman, Ethics and Anti-Corruption Commission serves as support for the parliament because their reports and findings are what supports parliament to carry out its responsibilities. The power and process to sanction is conducted via the internal tools and mechanisms, so this study will group the relevant internal tools and mechanisms into the two accountability processes (answerability and enforceability). Although, external horizontal mechanisms are important components of horizontal accountability, it is not included in this study because the power to sanction is held through the internal mechanisms and incorporating a theoretical framework that will deal with both internal and external mechanisms will expand the scope of this study. Hence, the major focus will be on the internal tools and mechanisms, which are components of the dependent variable which will be used to analyze the change caused by the independent variable earlier discussed. Parliament has a wide variety of tools and mechanisms used in carry out its functions but tools and mechanisms stated below are those of importance to this study.

Answerability

Questions: are used by parliament to seek information and clarification of government policies, it could be done both orally and in written form and when answers are not satisfactory to the parliament and interpellation is done. Questions are the most commonly used oversight tool because it is the first tool often used before other tools when parliament seeks clarification from government on issues of concern. If this happens in the chamber, MPs direct their questions in advance to the Speaker, who determines whether and when they will be presented to the appropriate minister for response.

Interpellation: is a formal procedure used by parliament to request a member of the executive or the entire government to justify certain policy. Such procedure leads to support or disapproval of the policy. During question hour each individual member of parliament is entitled to formally submit questions to a member of government and the member of government is required to answer the questions. This compels government to give required information to parliament.

Committee Hearings: A parliamentary hearing is an instrument used by parliamentary to obtain useful information from the executive arm on a specific issue which include witness hearings, taking submissions, discussing evidence in full detail. Committees have the power to summon anybody who must swear under oath. Committee members also conduct field

visits, request evidence and make recommendation to the house and AG for further action. Committees are the most important oversight tool used by parliament, it is often regarded as the engine for oversight.

Motions: Motions is a parliamentary procedure, it is a formal proposal by a member of a deliberative assembly urging the assembly take certain action on a specific issue.

Sanctioning

Reports: This is used by parliament committees to notify the chamber and government on its findings with recommendation for further action. In the Kenyan system, the initiative to accept and act on the recommendations rests on the president and furthermore base on the power-sharing agreement for an action to occur from the reports, the two executives must agree.

Vote of no confidence: is a procedure used by parliament to withdraw Parliament's confidence in government and it requires a majority vote. This may result to the resignation of government or dissolution of parliament which will lead to new elections.

The importance of answerability and sanctioning tools and mechanisms above and how they may be affected by power-sharing (absence of official opposition) will be further discussed in the next section.

3.2.1.2 Role of Opposition Politics in Parliament

One of the core principles of a liberal democracy is limiting the power of the executive in the form of constitutional constraints which give rights that allows political and social actors to criticize and oppose the actions and policies of the government (Helms, 2008). Any democratic setup without opposition is a flawed democracy, an argument supported by Ian Shapiro who emphasized, that "*democracy is an ideology of opposition as much as it is one of government*" (Shapiro, 1996:57). An important feature of democracy is the existence of an institutional design which allows for an alternative to the incumbent's policy (Dahl, 1971). Institutions must then provide opportunities for oppositions to promulgate their positions (Shapiro, 1996).

Competitive party politics is the key to a viable political opposition to the incumbent. Political parties have become the key pillars of good governance and the rule of law because competitive elections is very important if elected officials will be responsive to the

preferences of citizens (Powell, 2000). Institutionally, parliament creates the arena for formidable opposition politics (Nnadika, 2007). But in order to fully understand the role of opposition politics in parliament, a clear understanding of the word opposition is necessary. Ulrich Karpen in Hennie (1996) define opposition as

“a basic position in which a single person or a group of people differs from the prevailing values, goals and intentions of others” (Hennie, 1996:11)

Opposition in a democracy could denote the system of checks and balances with which the constitution protects and corrects its own excesses (Barker in Cherry, 2000). Opposition politics is not only entrenched in democracy, it also exists in other forms of government, The major feature is that it attempts to convince the majority that they can better govern the state and hence aspires and attempts to take over government (Nnadika, 2007). Conceptually, opposition politics encompasses every form of oppositional activities aimed at good governance and upholding the rule of law.

Parliamentary opposition which is of importance to this study could be defined as a form of political opposition to a nominated government, particularly in a parliamentary system. The opposition in parliament, comprising of the minority not in government, *"is a necessary and indispensable component of democracy"* (Inter-parliamentary union, 1999:3). There is a common belief that a healthy Parliamentary opposition is essential for the sound working of democracy, which also means an active and constructive opposition to government's policies and actions guarantees citizens that government would fulfill their electoral promises. Signs to show an opposition is active is that such opposition will debate issues thoroughly and vigorously in the House and during the Select Committee process to ensure findings and stand point after questions, debates and hearings reflects a legal and an unbiased stand point (DecisionMaker, 2005).

Furthermore, opposition is not just about opposing the Government because at certain times opposition agrees with the Government when the issue raised or proposed by government is beneficial to the electorates beyond partisan beliefs (Ibid, 1)

Summarily, the functions of an active opposition is not solely based on improving parliamentary decision-making procedures by ensuring an active debate, reflection and contradiction but also to offer political alternatives; scrutinize legislative and budgetary proposals of the government; enhance legitimacy, accountability and transparency in the political processes; and supervise and oversee the government and the administration.

The extent to which the opposition is allowed to actively engage the ruling government with the above stated functions in any given parliamentary can be seen as a sign of the level of political accountability and if none of them are fulfilled, then this will be a sign of a dysfunctional democracy.

There is a battery of tools and mechanisms available to opposition MPs to be able to conduct its oversight functions on the executive and they were highlighted in the previous section. Power-sharing in the case study alters the structure of oppositional politics. As earlier stated opposition are minority parties outside government but in the case study and due to power-sharing both minority and majority are in government which leaves the question, who is scrutinizing who and who is obliged to scrutinize the other?

Regrettably, detailed research in the field of parliamentary opposition is almost absent, although parliamentary opposition is evident in international political research but the few works written could be "*described as occasional papers by authors specializing on other areas and aspects of legislative research*" (Helms, 2008:7). Nevertheless, this study is not interested in who has the responsibility to scrutinize the other since there are no official opposition in this case study but rather how the lack of official opposition impacts the earlier stated tools and mechanisms of oversight on the executive.

3.3 Presenting the Case and Hypothesis

Kenya was adopted as the case study for three major reasons, first and foremost Kenya is a unique case because it was the first in the history of power-sharing to implement such an agreement to resolve election deadlock. Secondly, Kenya has had a relative better history of opposition politics since multiparty elections started in 1992 which has also strengthened political institutions when compared to Zimbabwe. Hence, if accountability suffers in Kenya, it likely to suffer elsewhere with similar political arrangement.

Lastly, Zimbabwe which is the only second existing case of post-election power-sharing, as at the time of this study is yet to fulfill the second modus operandi of its implementation i.e. transition from power-sharing government to a duly elected, while Kenya has fulfilled its agreement's modus operandi.

There have been numerous theoretically informed predictions on the possible impacts of post-election power-sharing in the few existing literatures, hence they lay the foundation for this thesis. This propositions or predictions are also adequate to draw an analysis of the impacts of

post-election power-sharing in Kenya. According to Robert Yin, "*for some topic, existing works may provide a rich theoretical framework for designing a specific case study*" (Yin, 2003: 29). Horowitz (2009) and LeVan (2011) hypothesize that post election power sharing will positively impact accountability due to the temporal nature of power sharing in Kenya which makes PNU and ODM political competitors in future elections and the multiple veto players will be tested by this study. Although, it should be noted that these authors were inconclusive but optimistic that this would be the case in Kenya, as earlier discussed in the literature review. On foundation of these theoretically informed predictions this thesis will test the following hypothesis:

Post-election power-sharing agreement will weaken horizontal mechanisms for political accountability.

The justification for testing a contrary hypothesis to the existing one is that this study finds it impossible for post election power-sharing to positively impact horizontal accountability in the absence of official parliamentary opposition. Testing this hypothesis will provide an understanding of how the independent variable will impact the dependent variables, which in this case is post-election power-sharing agreement and mechanisms for horizontal political accountability respectively.

In the next chapter, the design of the study and how data will be collected and analyzed will be discussed.

Chapter 4 Methodological Approach and Design

A qualitative research approach is used for this study because this method of research is appropriate for this particular type of research since it will help me convey the richness and intensity of details by allowing me to conduct a very detailed investigation of issues and analysis of the phenomena. Using qualitative method, the research will reveal more about the phenomenon. Also in line with Babbie's (1986) argument, this choice of method will give the study flexibility, opportunity to observe a variety of aspects and also an in-depth analysis.

It is without doubt that qualitative research like any other research method has its critics. In qualitative research issues such as reliability, validity, biases in case selections and ethical issues could exist if the research fails to carefully and objectively study the subjective. These pitfalls were taken into considerations and discussed at all stages of the research. As earlier discussed in the previous chapter and the justification of the case study, all indicators pointed to the fact that Kenya is a better case study compared to Zimbabwe which is the only second case study and this rules out biasness in case selection which is often the basis for criticism for case study design. Issues of reliability and validity associated with case study research would be discussed where appropriate as this paper progresses.

This study is an explorative research with a single case (holistic) study design with a deductive reasoning. According to Robert Yin a case study is:

“An empirical inquiry that investigates a contemporary phenomenon within its real-life context, especially when the boundaries between the phenomenon and the context are not clearly evident.” (Yin, 2003:13).

A rationale for using a single case study is because power-sharing in Kenya's case represents a unique case as earlier established in this paper. Post-election power-sharing is a new phenomenon and the case study approach offers the means of tapping the richness and depth of information not usually offered by other methods. Lastly, it is an holistic study because it has one unit of analysis which is the Parliament a political institution.

The justification for an explorative study is because the purpose of the study is to discover ideas and insights into what impacts power-sharing could have on political accountability, using existing theoretically informed hypothesis as a foundation (deductive reasoning).

Literature and depth interview methods of explorative studies would be combined in order to triangulate both sources of data.

Although, there are some descriptive elements to the study, since the study also tries to describe the characteristic features of some of the concepts.

4.1 Field Work and Data Collection

The major data used for this thesis will be primary data from interviews and archival documents such as National Assembly Official Reports. In order to ensure credibility and transferability, secondary data such as articles from digital and print media, books, academic articles, white papers, reports from civil society organizations such as Mars group and Article 19 was also used. The importance of the various data listed above is to ensure data to be used represents the views of those inside government and those outside government, as this will ensure adequate triangulation, which will guard against arguments that the study findings was as a result of a single source.

4.1.1 Interviews

The interviews used in this study analysis was conducted during a two months field study in Kenya and a total of seven face to face, in-depth, formal, open ended semi-structured interviews were conducted between March 25 and May 21st 2013. My presence in Kenya at this time created some limitations which would be discussed later in this chapter but it also offered me the opportunity to conduct some of the interviews during power-sharing and after power-sharing because sometimes issues may be discussed in a different manner at different times but this wasn't the case in this study.

Upon arrival to Kenya, I spent the first few days familiarizing with the people and this was done to understand the local culture and linguistic accent. English is an official language in Kenya but as seen globally, there is always a local accent to pronunciations, hence understanding this linguistic differences would make communication with interviewees fluent. On the culture perspective, it was also important I understand the local culture, especially how to greet and show respect in the local dialect. This was done to create a relax atmosphere between me and the informant because the introduction stage of an interview is important to establish a good relationship that will lead to a more relaxed atmosphere for interaction, which will also enhance the quality of data collected.

After a few days, identified interviewees were contacted via phone calls and emails. The purpose of the research was then sent to contacts who responded and were willing to participate in the study before the interview was conducted.

In-depth interviews was used because it enabled me to tap the knowledge and experience of the interviewee on the issue. Rossman and Rallis (1998) state that in-depth interviewing is the hallmark of qualitative research because it helps to understand participants and their worlds because a dialogue of long, in- depth interviews creates a deeper understanding of the phenomenon being studied.

Semi-structured interviews were used in the interviews because when used in such an explorative research like this one it helps explore the phenomenon deeply. In this case, it allowed and encouraged interviewees to talk freely about event within the set topic upon probing, which is an informant styled interview. This style of interview gives a researcher the opportunity to seek new insights into the phenomenon, explore the study topic more deeply and address issues of interest without leading them into answers.

The seven informants included a senior political party leader who was also a deputy presidential aspirant in the just concluded 2013 elections. Other interviewees were two directors of civil society organizations, one researcher, two journalists, and one legal expert who are all active and deeply knowledgeable of the research topic. Interviewees were carefully selected to ensure they are deeply knowledgeable of the issue being explored and that they have years of experience within parliamentary oversight. Interviewees were drawn from organizations and corporations which have over the years been active in parliamentary issues.

The interview questions as earlier stated was semi-structured, hence the interview questions were flexible, although based on the purpose of the research there were certain topics that must be covered. The research questions were drafted beforehand to ensure all area of interest are covered during the interview, so that if the interviewee fails to address that area in the initial question posed such questions were then asked. This gave the interview some structure and direction, so as to avoid digression. The interviews started with the question:

When I say the concepts power-sharing and government accountability what are your reflections and thoughts?

and based on interviewee's responses, further questions were asked in a friendly, non-threatening conversational atmosphere. However, because each informant was asked a different series of questions based on their responses to previous questions, critics of semi-structured approach argue that it often lacks the reliability and precision when compared

to structured interviews but this was avoided by the formulation of pre-interview questions to address all areas of interest. The use of such semi-structured approach allowed for flexibility and interviewees discussed freely because they had time to develop their answers which also lead to new and important insights of the phenomenon. Interviewees felt at ease in the interview and that gave me the opportunity to explore further questions which I believe provided me with valid data with a lot more depth.

The informants used for the study cut across all relevant sectors as earlier highlighted and their statements will be triangulated against each other as well as with other sources of data. Most of the informants have regional and international experience on horizontal accountability. It is regrettable that government or parliamentary officials were not interviewed but data to compensate for this was sourced and this will be elaborated upon in the limitation sub-section. This ensured that data used for the analysis of this study took into consideration an internal and external view of the issue being investigated, as this is important to ensure the findings of this research does not reflect a one sided view.

For all interviews, an informed consent was ensured, this process started from the initial contact to the interviews and it continued in the actual interview. This is a vital and ethical part of data collection process because educating the interviewee on what and how their statements will be used for ensures interviewee's consent, voluntariness, understanding of the interview. An informed consent in writing was also signed by the interviewees giving me the rights to use their statements for the sole purpose of this study. Upon the completion of each interview, recommendation for other informants that will be of importance to the issues discussed, was always asked and that proved helpful as this gave me privileged access to a Party National Vice Chairman and two Directors, one of which had to interview me at his private residence due to time constrain.

In order to protect the identity of the interviewees as agreed upon in the signed informed consent, this thesis will not reveal names of these individuals, excerpts from the transcript will only be used.

Limitation

The limitation during data gathering was that during the time of this study discussions of political issue was a sensitive issue in Kenya, this was because the field studies was conducted during the transition from Kenya's power-sharing government to democratically

elected government. During this time political uncertainty loomed and the impression was that Kenyans saw post-election power-sharing as a dark past and they were in a hurry to forget about it and were optimistic that the pending transition would be successful without a repeat of the ugly incidence of 2008. I understand that this could be argued to impact the responses from informants but their statements will be confirmed with other sources to ensure the answers are not situational answers. Furthermore, the busy political atmosphere and uncertainty also made it difficult to schedule more interviews, because at the beginning of the research it was the intention of this study to conduct at least ten or more interviews. Nevertheless, the seven successful interviews were of great value as informants spoke freely and confidently on the issue because the topic of study has been an area they have been involved long before power-sharing.

Furthermore, attempts to interview government officials, parliamentarians and administrative staff of the House of Assembly proved futile and this was because of the ongoing political transition as at the time of the field study. In order to ensure that this thesis is able to triangulate using different views and sources as earlier mentioned, the use of documents from the Kenya parliamentary Hansard (archive) which contains transcripts of parliamentary proceedings with relevant statements on issues relating to the study will be used to support data from interviews. Also, books such as **IT'S OUR TIME TO EAT** by John Githongo and **DAWN OF A RAINBOW: THE UNTOLD INTRIGUES OF KENYA'S FIRST COALITION GOVERNMENT** by Dr Shem Ochuodho which was written by former government officials will further enrich the study. Digital and print media articles will also be used concurrently. Several visits were also made to the Kenyan Parliament to observe proceedings, which gave me the practical understanding of how parliamentary tools and mechanisms are used for government oversight.

Content analysis will then be used to analyze all relevant data retrieved from all of the sources above and a detailed description of the content analysis process to be used will be elaborated later in this chapter.

4.2 Operationization

The clarification of concepts and operationalization with multiple contextual meanings is vital to a research paper. In the previous chapter, this paper gave an elaborate discussion of power-sharing and accountability, because if theoretical concepts are not properly explained, it can lead to different research outcomes (De Vaus, 2001).

In order to operationalize how power-sharing may impact horizontal mechanisms of political accountability, this study developed an analytical framework with variables to capture horizontal accountability mechanisms. Primary and secondary data will be used to confirm or infirm the hypothesis, which will give an indication of what impact the Kenyan power-sharing agreement had on the 10th Parliament.

The indicators as earlier explained are derived from the power-sharing agreement (concept) which is the independent variable, the two most important points of the agreement would be put against variables of the dependent variable which are also sectioned into the stages of accountability processes they belong to. The justification of the two selected points of the agreement is that these two points are the most important sections of the agreement which shaped the governing structure implemented by the agreement.

Table 1 below shows the visual analytical framework table that would be used in the analysis of data collected.

Table 1: Structure of the Analysis

Indicators from the Power-sharing agreement	Parliamentary Tools and Mechanisms for Executive Oversight	
	Answerability (Questions/Hearings/ Motions/Interpellation and Committee Debates)	Sanction (Reports and Vote of No Confidence)
Mutual Veto (by the two principals)	Theme One	Theme Two
Grand Coalition	Theme Three	Theme Four

4.3 Analysis

In analyzing data, Marshal and Rossman notes that "*the process of bringing order, structure and interpretation to a mass of collected data is messy, ambiguous, time consuming, creative, fascinating and does not proceed in a linear fashion*" (Marshal and Rossman, 2011:207).

In order to be able to analyze the interview data, a word for word transcribing of each interview was done and this was carefully done to avoid loss of data.

Content analysis was used for analyzing transcripts from the interviews, this method of analysis is often used to analyze written, verbal or visual communication messages (Cole, 1988) because it allows the researcher to test theoretical and conceptual issues thereby enhancing the understanding of the data.

The choice of content analysis for the analysis of this study is because, a deductive content analysis is used when the structure of analysis is operationalized on the basis of previous knowledge and the purpose of the study is theory or hypothesis testing (Kyngas & Vanhanen 1999). Based on the previous statement made in this paper that the foundation of the thesis is based on the testing of theoretically informed hypothesis by existing literature, content analysis is a good analytic process for the paper. The first step of a content analysis is to develop a categorical structure for analysis (Table 1), after which data would be coded according to themes against indicators (Table 2) and a discussion of the findings will follow.

4.3.1 Themes

Themes were develop from the matrix in table 2 below, these themes are meant to detect what kind of impacts the key features of the power-sharing agreement in kenya would have on parliamentary tools and mechanisms for executive oversight. This will allow for the testing of the thesis hypothesis "*Post-election power-sharing agreement will weaken horizontal mechanisms political accountability*" as against optimistic hypothesis by Horowitz and LeVan the it will most likely increase accountability. The themes and subsequent test of the thesis hypothesis will enable the study answer its research question "*How does post-election power-sharing affect horizontal mechanisms for political accountability?*". The themes are:

Theme One

This thesis hopes to find evidence that the creation of the office of the prime ministers and resultant mutual veto by power-sharing agreement in Kenya will affect answerability process of power-sharing. This argument is born out of the belief that first, the inclusion of the opposition leader in government expands the notion of collective responsibility to include opposition. In order to be able to support this argument. Theme one will look for evidence to show if the inclusion of the opposition in government via the mutual veto will impact the answerability process parliament tools and mechanisms of oversight.

Theme Two

The creation of the office of the prime ministers and resultant mutual veto by the power-sharing agreement in Kenya as a result of the post election agreement leaves a question mark on parliaments capability and willingness to utilize its powers to pass a vote of no confidence on the executive in the event of wrongful conduct and how the existence of two principals would impact parliamentary reports and recommendations. This belief and subsequent theme is based on the reasoning that parliament may compromise its sanction powers for the peace of the nation because a vote of no confidence on the government which will dissolve government may take Kenya back to the scenarios that lead to the power-sharing in the first place. It will be interesting to see if these will have an impact on the parliaments wiliness to use this powers especially on the any of the two principals giving the situational factor and possible political consequences of such an action. Evidence to support the use or failure to use this sanction power in the event of an abuse of office would be sourced from the available data. This theme will also verify if the existence of this two principals with mutual Veto would impact governments ability to effect parliamentary reports and recommendations on accountability since the agreement says they both have to agree before a minister can be removed and technically that means even in misconduct.

Theme Three

Empirical data would be used to investigate if the bloated government (grand Coalition) which included MPs from the opposition in government would impact parliamentary enquiries and investigations which is the answerability stage of accountability. The argument for this theme is based on the reasoning which raises questions such as, how thorough will this stage of accountability be since invariably everyone is in government or would there be a

partisan approach to enquiry which may lead to a rigorous enquiry, investigations and findings.

Theme Four

Empirical evidence would be used to investigate if parliament was able to conduct the second phase of accountability process (sanction) by checking how reports and recommendations were handled. This will be done to see if recommended actions or reports were in concurrence with the investigations of other bodies within and outside parliament. Furthermore, This theme will find data to verify if recommendations and reports were acted upon as recommended because failure to complete the accountability process of both answerability and sanction flaws the entire accountability process.

It is my belief that this themes will help shed light on the possible impacts of post-election power-sharing on horizontal accountability on which further studies could build upon.

Table 2: Analytical Framework

Indicators from the Power-sharing agreement	Parliamentary Tools and Mechanisms for Executive Oversight	
	Answerability <i>(Questions/Hearings/ Motions/Interpellation and Committee Debates)</i>	Sanction <i>(Reports or Vote of No confidence)</i>
Mutual Veto (by the two principals)	Theme One How would collective responsibility affect opposition	Theme Two Use of vote of no confidence and how reports are dealt with
Grand Coalition	Theme Three How thorough	Theme Four Handling of report Findings

As earlier noted in this paper, during the interpretation and analysis of data, for confidentiality purposes the names of the interviewees would not be mentioned but the following code names below will be used to represent different speakers from the interviews during the interpretation.

- CSD 1 will represent the civil society organization director 1
- CSD 2 will represent the civil society organization director 2
- J 1 will represent journalist 1
- J 2 will represent journalist 2
- PL will represent party leader
- IOR will represent researcher at an international organization
- LE will represent legal expert

This will enable a clear understanding of who said what and this will also aid my triangulation of interviewee statements against each other. Furthermore, only the strongest arguments in the interviews will be used.

The next chapter will analyze both primary and secondary data , in order to test the hypothesis and subsequently answer the research question.

Chapter 5 Data Analysis and Interpretation

Data analysis is one of the most tedious aspects in a qualitative research, hence this thesis will analyze and interpret both primary and secondary data as simple as possible. To be able to do these this, data will be analyzed in themes using both primary and secondary data evidence concurrently as this will enable triangulation of statements. Each theme section will end with a brief summary which will summarize the findings of that section and the summaries of all four themes will be the basis of the conclusion in the next chapter.

5.1 Theme One

In an attempt to answer the research question and explore the study hypothesis, theme one searched for possible impacts that the mutual veto held by the two principals will have on the answerability stage of the accountability process. Interview transcripts from only one informant had statements to theme one, even if attempts were made to prompt all informants to give data that could be used in this theme but to no avail. The only informant who supported this theme, made statement showing that the inclusion of the opposition (ODM) in government resulted in a situation where collective responsibility systematically entangles ODM and forces them to tolerate, ignore and harbor positions and actions of PNU. The following is a quote that support this argument from the informant,

"if you have been appointed as a member of cabinet, you have no right to oppose government policy so you have a situation where power-sharing put them in government and collective responsibility deals with them so government can never lose motions, you can't lose any debate because it has a voting machine" (CSD 1).

What the statement above points to is that there is lack of opposition in hearings, questions, motions and committee debates due to due to the power-sharing arrangements.

Summarily, obtained data for this study does not find adequate data to support the informants argument that the mutual veto affected the answerability stage of horizontal accountability. No doubt, impacts may exist in the power-sharing concept as a whole but for specific impact resulting from the existence of two executives, this thesis did not find direct and undisputable impact from its data even if systematic attempts were made to no avail to get the informants view on possible impacts. The study argument for theme one would be considered weak.

5.2 Theme Two

On the use of vote of no confidence on the executive, first, according to the agreement which states that *"the prime minister and deputy prime ministers can only be removed if the National Assembly passes a motion of no-confidence with a majority vote"*. This technically guarantees that the Prime minister cannot be removed because his party has majority in parliament, given that the status quo remains, which somewhat guarantees he remains in power. Also, with the Kenya's system of governance, a vote of no confidence on the president means the resignation of government and probably the dissolution of parliament for fresh elections. The willingness of MPs to shoot themselves on the foot by going through the process of being re-elected again is unlikely. This school of thought was also highlighted in one of the interviews when the informant stated that

"The 10th parliament will never use the vote of no confidence on the president because that will likely lead to a dissolution of parliament which they stand to lose from and also for fear or pretence that it will result in political chaos" (CDS1).

This statement is supported by digital news publication by Standard Digital on its May 17 2009 publication, which stated that the impact of a disagreement between the President and PM *"cascades down to the villages, heightening ethnic tension, inflaming political party passions and adding onto the state of hopelessness and disillusionment among Kenyans"* (Standard Digital News, 2009:1). This is because of the fear that a vote of no confidence on any of the principals or public disagreements could lead to violence or disruption of the coalition.

This argument is further evident, when during the PM's disagreement with MPs over settlement of squatters from Mau and MPs from both PNU and ODM considered casting a vote of no confidence on the PM during a debate at the parliamentary chambers. Justice and Constitutional Affairs Minister Mutula Kilonzo stated in December, 2009 that a dispute which leads to a vote of no-confidence in the PM may disrupt the grand coalition.

Again during parliamentary procedural motion on the 22nd August, 2012, when MP's were furious over the government's decision to send bills to Parliament at the last minute which does not give them adequate time to review the bills. Hon John Mbadi Ng'ong'o stated that *"it is sad that this Government behaves in the way it is behaving. If we had a choice, this Government would be sent home through a vote of no confidence Motion against it ."* While on the same debate Hon Elias Peter Mbau stated that *"because this is a Coalition Government,*

probably, the Executive may not have really come to terms with the fact that, come the next general election, we shall be having an Opposition which will at any time be looking for the slightest chance to ensure that a Motion of No Confidence in the Executive is moved and passed to ensure that the country moves forward" (National Assembly Official Report, 2012). From this statements above, especially with the use of the word *"if we had a choice"* it is possible to deduce that the institutional constrain from the parliamentary system coupled with power-sharing agreement, government is deemed unaccountable to the Parliament for two reasons. First, as earlier stated the life span of the parliament is tied to the existence of government and secondly a vote of no confidence may take Kenya back to the catastrophe it avoided by agreeing to the power-sharing deal in the first place. Hence, MPs restrain from taking kenya to the same part taken by Angola, Lebanon, Sierra Leone, Cyprus, and Sudan, where the outbreak of civil wars have all been the result of broken power-sharing agreements.

Consequently, parliament would be reluctant to sanction the President or PM even if the need arises and that leads to accountability immunity from parliamentary vote of no confidence (sanction). Which means inclusiveness precludes accountability in the case study.

Another impact from the creation of the office of the PM and subsequent mutual veto is that since the Kenyan parliament has no direct power to sanction but recommends sanctions for public officers. It's recommendations for sanction of other executives were either ignored or rejected due to the mutual veto clause in the agreement which states that *"The removal of a minister of the coalition will be subject to consultation and agreement in writing by the leaders"*.

Consequentially, even when ministers are found guilty of any misconduct but because the two principals fail to agree the minister will remain or re-drafted to another ministry. This therefore, gives the ministers immunity over parliamentary power to influence their sanction. Informants made statements to suggest this was the case and this was supported in the parliamentary debate of Thursday, 29th January, 2009. In the debate, Dr. Khalwale questioned the legality of the reappointment of Hon. Kimunya to the Cabinet even if parliament passed a vote of no confidence on him in light of his questionable involvement in the sale of the Grand Regency Hotel. Furthermore he stated that he was yet to be absolved by any independent institution and yet he is being reappointed to a cabinet position by government. The speaker in response, cited that Section 16 of the Kenya Constitution *"makes it clear beyond any shadow of doubt that the appointment and removal of Ministers of the Government of Kenya is the prerogative of the President"*. He further stated that as regards

Dr. Khalwale motion of "*the Executive defying or ignoring the Motion of censure and vote of no confidence in Mr. Kimunya as Minister,*" "*The Executive is at liberty, if it is so inclined to ignore the wishes of this House and proceed with the exercise of its constitutional functions, without taking heed of the proceedings and decisions of this House in as far as a censure Motion is concerned*" (National Assembly Official Report, 2009)

Even if this seems like a constitutional constrain for parliament to hold the executive accountable while conducting its oversight duties rather than a result of power-sharing. The Kenya issue is not solely a constitutional constrain but also as a result the mutual veto held by the two principals. This is because when the two principals disagree (not on the findings of the parliament but for political reasons) parliamentary recommendations are not acted upon and informants made statements to support this argument:

"on several occasions we had situation where the prime minister agree with the committee that there is an issue that this person needs to be fired and the president disagreeing" (LE).

"If you were the PM or president will you agree to sack a minister who will cost you votes in the coming election. Even the president who will not run was still playing the game because he will return through his anointed candidate and you know parliamentary reports are only recommendations so the executive could choose to ignore it" (J2).

These statements by informants are not just political situations that can happen in any democracy where competition for electoral votes exists, this is a direct impact from power-sharing because you have two executives in government as a result of an election deadlock. Therefore, a dismissal of an executive from any side would undermine the legitimacy of that side in government. I argue that in the absence of power-sharing the dismissal of an executive by the president will increase public support for the president or party rather than diminish it.

Lastly, what this theme also found was that the confidence of parliamentary immunity technically held by the principals had a contagion effect on cabinet Ministers as well. Ministers have become unaccountable to parliament as they even ignore parliamentary request for explanations in relation to their ministry as exemplified by a debate in parliamentary chambers on 28th April 2011 when Hon John Mbadi Ng'ong'o brought the awareness of the Temporary Deputy Speaker Hon Joyce Cherono Laboso to a particular Minister who was invited to appear before a Committee to discuss important provisions of the Budget Policy Statement and important provisions in the main Budget, but he never appeared (National Assembly Official Report, 2011). Another example was when a Minister fail to show up for

questions was in May 2012 when the Kenyan Sports Minister Paul Otuoma failed to show up to respond to a question posed by Peris Simam, prompting Speaker Gitobu Imanyara to pass the temporary restraint orders (In2EastAfrica Reporter, 2012).

Evidence in theme two in this study is considered very strong. The impact of the equal two principals had negatively affected parliamentary powers to sanction government in the sense that, no matter what the principals do they cannot be sanctioned and also no matter what cabinet ministers do they are safe from prosecution even if parliament recommends otherwise due to political support from one of the principals which is enforced by the principal's veto powers.

5.3 Theme Three

Theme three in this study seeks for evidence to investigate how thorough and vigorous parliamentary questions, hearings, motions, interpellations and committee debates which are all used in the answerability stage of accountability process in parliament were during the grand coalition, given most parties were in government directly or indirectly i.e. as an executive member or through party affiliations. Interview transcripts of the interviews found statements which show that there was high level of protectionism in parliamentary proceedings and quotes from the transcripts to portray this argument are as follows:

"the debate went on in parliament so if you go to Hansard and search the debate on a particular issue, there was a time for a motion on how many was meant for IDP has been disbursed or misappropriated and there is a whole discussion there and then you will see them not really a discussion on the issue but a protectionist argument to protect the minister in charge because of his political affiliation"(LE).

"again just because of party allegiance, it was like since it's our own in the government, why must we butcher him, why must we torment him and then you see committee or chamber debates moving away from the issue to PNU and ODM attacking each other" and " There was a report which implicated the deputy prime minister but since the chair of the committee was from his party, the report that we have is that his name was sponged from the report." (IOR).

From the statements above, it is obvious that answerability mechanisms in parliament was riddled with partisan behavior to protect each other but this wasn't only as a result of party partnership but also as result of all other forms of partnership as seen in the statements below.

"I will explain something to you, this same people who are ministers are the one sitting in this committees, if my committee is responsible for oversight on your ministry and I am in a committee responsible for oversight over your own ministry what do you expect to happen. it's definitely if you protect me I will protect you and if you crucify me I will crucify you" (J1).

"party affiliations in parliamentary oversight committees perhaps help to a lesser extent in trying to enforce that horizontal accountability as it were" and " you will see a few people who had been assisted in the oil triton scandal from the president side PNU side, ganging up to help the ODM colleagues" (CSD 2).

"ministers being investigated most time rallies his party members or ethnic men to quash or water down reports. we even had ministers not coming to answer questions when requested by the parliament" (CSD1)

"So we found motions or laws being either watered down or defeated by lack of decorum in parliament, people are not there to vote or debate it, they just disappear (laughs)" (LE).

A rationale for the lack of thorough and transparent use of parliamentary tools in theme three is most likely because almost all MPs were in government directly or indirectly (through party affiliations) and at one time or the other MPs would have a case to answer and hence it became a tradition of protecting each other and this favor will be reciprocated by the person being assisted.

Hence, base on the protectionist evidence established by theme 3, this research will consider theme 3 as being a strong argument because it affected ministers answerability to parliament negatively.

5.4 Theme Four

Theme four seems to be the most prominent among the four themes used in analyzing interviewee transcripts. All interview transcripts had statements to support that the Grand Coalition negatively affected parliamentary ability to sanction members of government. On numerous occasions, parliament intentionally failed to produce reports or produce reports

exonerating the government officials being investigated and this appeared more than once in most of the interviews. The strongest statements to support this claim are as follows:

"So if you look at the committee reports you will see how power sharing impacted negatively on the report because you can easily see that this and that are results of the power struggle"(LE).

"so there was a lot of scandal from energy to education of about 6 ministries where people steeped aside and a lot of ministries were investigated, even finance and they were found not to be involved in the scandal and they came back to the ministries and people were very upset" (LE).

"There was a report, the report implicated the deputy prime minister but since the chair of the committee was from his party, the report that we have is that his name was sponged from the report (IOR).

" if you want to look at it from the previous parliament, it may be that the reports high but how rigorous the report are and the kind of recommendation they are coming up with. you will notice they got weaker giving the power sharing agreement" (CSD 2)

Furthermore, this research finds out that in many cases there would be thorough and vigorous answerability process but the second most important stage of accountability i.e. sanction, would not be followed through as confirmed by informants statements such as

"sometimes such hearings will happen as a public relations and nothing will happen, even the ministers found to be guilty of an offence, nothing, even in the parliamentary report will indict him even if every indications point to him. so they come for hearing but they will be absorbed, then the reports will point to the technocrats and public officers in the ministry but not the politicians" (IOR).

"With the use of their colleagues in government either through party or ethnic alliances they are able to absolve themselves from issues"(PL)

" high level of reports that were squashed from committee levels that certain committee would come out with reports and the reports will either be rejected or severely changed before adoption" (CSD 2)

"The simple truth is they were exposing each other but very little was being done to punish those found or let me say suspected of misdeeds. This is because as you know Kenya politics is ethicized, if I give you the cabinet position and later I sack you then that automatically means I will lose the votes from your side. So as in the case of the new deputy president when he was sacked by the PM but then reinstated by the President, he then aligned with the jubilee coalition in this new election which made him deputy president"(J2).

" you will see them do investigations, conduct hearings debates and write reports but the reports will not see the light of the day"(J2).

"we were going to the second Kibaki administration we go with the same information and you find out that you get a very good lengthy hearing, and then the impunity of it is that that committee don't even bother to produce a report. The cover up became much easier because everybody had a an interest in sustaining this coalition, national unity"(CSD1)

These statements above from informants are further strengthened by the earlier argument raised in theme two relating to MP Dr. Khalwale's motion of *"the Executive defying or ignoring the Motion of censure and vote of no confidence"* as a result of the reappointment of Hon. Kimunya to the Cabinet even if parliament passed a vote of no confidence on him. The return of Kimunya like many other cases, Shem Ochuodho called the *"result of sham investigations"* (Ochuodho, 2012:242).

From the transcripts, all informants across the different professions, made strong emphasis on theme four connecting power-sharing directly with failure of parliament to carry out its horizontal accountability function effectively. Furthermore, the parliamentary debate cited above on Hon. Kimunya supports the arguments from the interviewees. Cyprian Nyamwamu argue that corruption cases exposed by the media, government audit reports and civil society are never dealt with and horizontal accountability is hardly enforced during the grand coalition (Nyamwamu, 2010), which is in accordance with statements made by CSD1 above. Statements made by informants and from National Assembly Official Reports directly point to the inclusion of the opposition in government by power sharing is directly responsible for the failure of parliament to hold government accountable as much as it desired.

This research will consider theme four as being the strongest of all four themes because it evidently shows that the inclusive government affected parliaments ability and efforts to sanction the principals and other members of the executive. Which invariably means all but

one MP (who is actually not in government) may be able to save themselves from being held accountable from the parliamentary mechanisms for political accountability.

Table 3: Summary of Findings

Indicators from the Power-sharing agreement	Parliamentary Tools and Mechanisms for Executive Oversight	
	Answerability <i>(Questions/Hearings/Motions/Interpellation and Committee Debates)</i>	Sanction <i>(Reports or Vote of no confidence)</i>
Mutual Veto	Theme One Collective responsibility entangles opposition parties	Theme Two Principals had immunity from vote of no confidence Reports were ignored or rejected
Grand Coalition	Theme Three Protectionist enquiry	Theme Four Failure to produce reports after investigations Exoneration after investigations

The next chapter will conclude by stating the findings of this research and also make recommendations for future studies.

Chapter 6 Conclusion

The design and analysis of data for this research was carefully set out to adequately answer the research question "How does post-election power-sharing affect horizontal mechanisms for political accountability?" by exploring if post-election power-sharing agreement will weaken horizontal mechanisms for political accountability in Kenya.

This study, on basis of the arguments and findings of the themes in the previous chapter, affirms the research hypothesis that post-election power-sharing weakens horizontal mechanisms for political accountability in Kenya. The bases for this is that, theme two, three and four show strong arguments to support that the mutual veto and the creation of a Grand Coalition in the agreement negatively affected parliamentary processes for holding government fully accountable.

More specifically, data supporting theme two and four are the strongest because multiple data and data sources supports that power-sharing was associated with the parliament's failure to successfully complete the accountability process of sanction which is arguably the most important stage of the process. Although, theme three which is the answerability stage was also strongly supported but this study finds no strong alternative explanations to the impacts in theme two and four which suggests that post-election power-sharing agreement in Kenya negatively affected the ability of parliament to sanction government and its officials.

Although, some school of thought may argue that Kenya has for long witnessed executive impunity even before post-election power-sharing. This could be true but on the other hand, multiple informants points to the fact that power-sharing had a direct impact on the quality of reports (sanction) and none point to the fact that there is an historical angle to it. Also, the fear of a vote of no confidence on the executive resulting in chaos similar to what happened in 2007/2008 was not an issue before the 2008 power-sharing. Furthermore, in previous governments opposition were not in the executive, hence parliament was active in the hunt for misdeeds by the ruling party in order to discredit the incumbent.

Alternative explanations could be given to support the strong nature of theme three because it could be argued that protectionist behavior is a common politics in parliaments, especially in young or ethnically fragmented democracies such as Kenya. Furthermore, it could also be argued that theme three being strong was as a result of the political competition that exists due to the power-sharing, hence each group were eager to expose (but couldn't sanction) each other, in order to legitimize themselves as better leaders in the eyes of the public.

Nevertheless, failing to complete the two accountability process of answerability and sanction evident in theme two and four flaws accountability, as seen in this case study where there seems to be an active first phase of accountability (theme 3) only to be undermined by failure to implement the second phase (sanction), which is the most important stage of accountability.

Furthermore, this study finds LeVan and Horowitz argument that post election power-sharing in Kenya may lead to increased accountability not completely true. Although, it will be fair to state that from the findings of this study, the political competition envisaged by both authors to lead to increased accountability did exist but only at the answerability stage of the accountability process. So, it could invariably be said that post election power-sharing may result in an active answerability stage. This study finds that power-sharing exposed a lot of executive misdeeds, which was debated publicly and in parliament but there was an almost absence of sanctioning from the exposures which was confirmed by theme two and four of this study.

Hence, this study concludes that the mutual veto and grand coalition resulting from post-election power-sharing had a negative impact on horizontal mechanisms for political accountability in Kenya by limiting parliament's sanctioning capabilities. Furthermore, this study does not doubt the effectiveness of power-sharing as a conflict mediation tool but rather it hopes that its finding would bring awareness to institutional impacts of power-sharing in post election scenarios and consequently remind power-sharing policy advocates at both continental and international level that adequate considerations needs to be given to government accountability when advocating post-election power-sharing.

Lastly, this study can be replicated, so it is recommended that similar study be done in Zimbabwe which is the only existing second case of post-election power-sharing as at the time of this study. Hopefully, such studies will shed more light on the institutional dynamics and impacts of post-election power-sharing on political accountability.

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