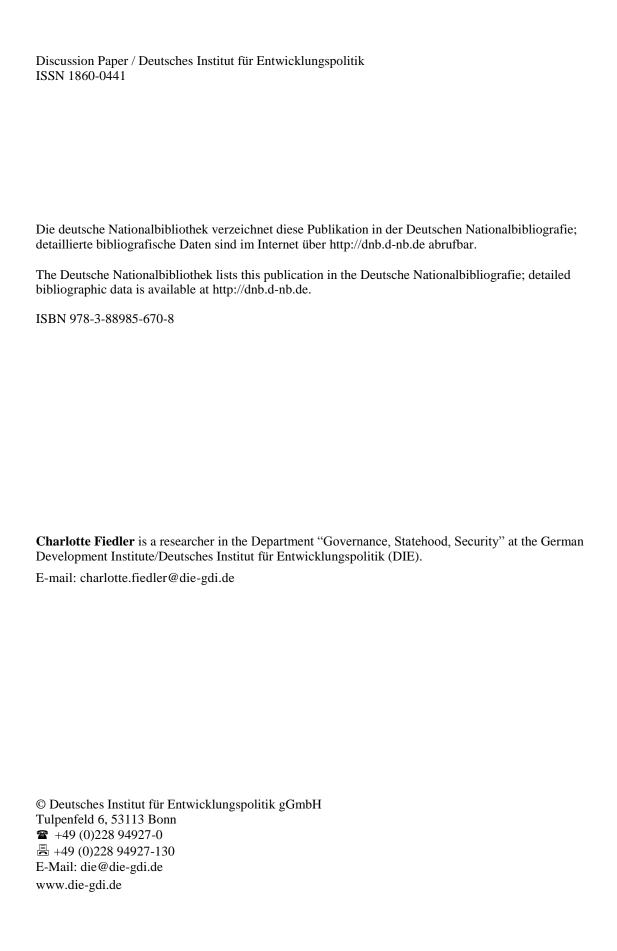# Towers of Strength in Turbulent Times?

## Assessing the Effectiveness of International Support to Peace and Democracy in Kenya and Kyrgyzstan in the Aftermath of Interethnic Violence

*Charlotte Fiedler*

# Towers of strength in turbulent times?

Assessing the effectiveness of international support to peace and democracy in Kenya and Kyrgyzstan in the aftermath of interethnic violence

Charlotte Fiedler

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**Charlotte Fiedler** is a researcher in the Department "Governance, Statehood, Security" at the German
Development Institute/Deutsches Institut für Entwicklungspolitik (DIE).

E-mail: charlotte.fiedler@die-gdi.de

## Foreword

This Discussion Paper was written as part of the DIE research project "Transformation and Development in Fragile States", which was supported by funding from the German Ministry for Economic Cooperation and Development. The project is based on a typology of fragile statehood developed at DIE, which guided the selection of eight case studies. It differentiates between countries on the basis of deficits in three dimensions of statehood: authority, legitimacy and capacity. The following cases were selected for analysis, namely countries that have substantial deficits in one of the dimensions: Senegal and Timor-Leste (capacity), Kyrgyzstan and Kenya (legitimacy), El Salvador and the Philippines (authority); as well as Burundi and Nepal, which face substantial deficits in all three dimensions of statehood. This paper presents the case studies on Kenya and Kyrgyzstan; all other case studies are accessible on the DIE homepage or will soon be available. A publication on the findings is under preparation.

Completing this research would not have been possible without the generous willingness of the interview partners and the participants of the online survey to share their insights, the helpful comments on drafts of this study by Christine Hackenesch and Imme Scholz, and the vibrant discussions with and continuous support of the other project members: Jörn Grävingholt, Julia Leininger and Karina Mroß.

Bonn, August 2015                                                                                      Charlotte Fiedler

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# Abbreviations

| | |
|---|---|
| CEC | Kyrgyz Central Elections Commission |
| CoE | Committee of Experts |
| ELOG | Elections Observation Group |
| EU | European Union |
| ICC | International Criminal Court |
| IEBC | Independent Electoral and Boundaries Commission |
| IFES | International Foundation for Electoral Systems |
| IIEC | Interim Independent Electoral Commission |
| INGO | International Non-governmental Organisation |
| KIC | Kyrgyzstan Inquiry Commission |
| KNDR | Kenya National Dialogue and Reconciliation |
| NCIC | National Cohesion and Integration Commission |
| NGO | Non-governmental Organisation |
| NDI | National Democratic Institute |
| ODM | Orange Democratic Movement |
| OSCE | Organization for Security and Co-operation in Europe |
| PNU | Party of National Unity |
| PSC | Parliamentary Select Committee |
| SDPK | Social Democratic Party of Kyrgyzstan |
| TNA | The National Alliance |
| UNDP | United Nations Development Programme |
| USAID | United States Agency for International Development |

# Executive summary

The main aim of this study is to assess and explain the influence (or lack thereof) of international engagement on significant political developments in countries struggling to consolidate peace and democracy. Therefore, the study analyses major milestones, or critical junctures, in Kenya's and Kyrgyzstan's peace and democratisation process. The two countries can both be considered fragile states – a group of countries with distinct challenges that the policy world is still struggling to effectively respond to.

Similar critical junctures were analysed for the two countries, concentrating on international support for peace and democracy after both experienced major outbreaks of violence (2007 in Kenya; 2010 in Kyrgyzstan). More specifically, the focus lay on whether donors contributed to 1) ending and overcoming interethnic violence, 2) restructuring their political systems through new constitutions and 3) holding the first elections after violence had taken place.

The analysis shows that the international community impacted the developments in Kenya and Kyrgyzstan to different degrees. In Kyrgyzstan, external engagement arguably did not have a particularly strong impact. Most events, e.g. the constitutional review process and the parliamentary elections, were almost entirely driven by local dynamics, with donors playing a positive – albeit secondary – role. In Kenya, in contrast, the international community had considerable impact, both positive and negative, on the peace and democratisation process. For example, international support to the commission that was tasked with drafting a new constitution enabled a smooth constitutional review process.

Three factors influenced international actors' success or failure to effectively promote peace and democracy in the two countries: cooperative vs. coercive forms of support; donor coordination; and prioritising stability over democracy. The findings with regard to these three factors generated insights for current academic debates as well as recommendations with regard to policy-making.

First, both cooperative and coercive instruments can be effective, but coercion, e.g. political conditionality, has the potential to enable developments in which cooperation faces limits. At the same time, coercion should be used cautiously, as it is also the riskier strategy – if local support is lacking, coercion can have negative effects.

Second, good coordination is essential, as it increases donors' chances to positively impact on peace and democracy in fragile states with low legitimacy. In Kenya and Kyrgyzstan, donor coordination enhanced the effectiveness of international engagement in almost all of the critical junctures. A clear lack of coordination always has negative consequences. However, one critical juncture revealed an overall negative impact of engagement – despite good coordination – suggesting that coordination that curtails diversity can harm democracy support.

Third, prioritising stability always has negative short-term consequences for democracy, potentially endangering democratic consolidation and stability in the long run. Only during one critical juncture – in the direct aftermath of a conflict – was prioritising stability justified by the resulting positive effect. Prioritisation can therefore make sense in an immediate post-conflict situation, but the risks inherent to this strategy need to be carefully weighed.

# 1      Introduction

Can international actors influence the peace and democratisation process in a country? And what explains whether they are able to do so or not? These questions remain central, both in academia and policy circles. Aiming to gain a deeper knowledge on the impact external support can have in fragile contexts, this paper investigates under which conditions external engagement contributed to stability and democracy in Kenya and Kyrgyzstan.

Kenya and Kyrgyzstan present interesting cases to study the effect of external engagement in fragile states. The two countries were selected for a comparative analysis based on a typology of state fragility developed by Grävingholt, Ziaja and Kreibaum (2012). The typology clusters countries with regard to the degree to which they fulfil – or fail on – three dimensions of statehood: authority, legitimacy and capacity. Kyrgyzstan and Kenya represent a type of fragile state that displays substantial deficits, in one of the dimensions in particular, namely state legitimacy.

At first glance, Kenya and Kyrgyzstan might seem too different to compare: Kenya is a powerful country in East Africa with around 44 million inhabitants; Kyrgyzstan is a small landlocked country of only 5 million inhabitants surrounded by the huge powers of China and Russia.

However, the political processes in the two countries have been strikingly similar. For many years, both countries were ruled by autocratic leaders who relied upon nepotism and patronage. Neither the Kyrgyz Tulip Revolution in 2005 nor the victory of the opposition in Kenya in 2002 were able to change this pattern. Instead, the newly elected leaders (Kurmanbek Bakiev and Mwai Kibaki, respectively) continued much like their predecessors. The outbreak of interethnic violence in both countries must be considered against this background. In Kenya violence in 2007 was sparked by disputed elections. In Kyrgyzstan violence occurred in June 2010, after a second "revolution" had removed President Bakiev from office. For many years the two countries had stood out as positive examples in their region: Kenya, surrounded by conflict-affected countries, was known as an "island of stability"; Kyrgyzstan, being surrounded by some of the most autocratic countries in the world, was praised as an "island of democracy" – at least in the early 1990s under then-President Askar Akaev. However, the events in both countries clearly showed that they were neither as stable nor as democratic as many had believed.

Both countries were able to make considerable progress towards higher levels of state legitimacy after experiencing violence. In the summer of 2010, new constitutions were accepted via referenda in both countries. In Kyrgyzstan the political system was transformed from a purely presidential to a semi-parliamentarian one – a first in Central Asia. Although Kenya retained its presidential system, the new constitution introduced devolution and significantly curtailed the powers of the president. Nevertheless, challenges to state legitimacy remain: the two societies are marked by strong divides – in Kyrgyzstan, stark economic disparities separate the south and the north; in Kenya, different ethnic communities and regions compete for power and resources. Furthermore, both countries continue to struggle with persistent corruption, a weak judiciary and a defunct party system.

Two main questions guide this paper. First, have international actors contributed to the consolidation of peace and democracy in the two countries? Second, which factors explain successful support and which explain failure? In order to assess the impact of donor engagement, the project focusses on selected critical junctures in a country's peace and democratisation process. These critical junctures are events or decisions that were decisive for the future development of the country. It is assumed that donors can merely contribute indirectly to them by supporting domestic actors and institutions, which themselves drive the peace and democratisation process. In each juncture the analysis consists of several steps: tracing the junctures' impact on the overall process; identifying what decisions, actors and institutions characterise the juncture; and whether donor support was crucial during the critical juncture. The final step consists of explaining why donors were able to impact the juncture in a certain way, or failed to do so. This last step was guided by a set of three hypotheses about the effect of a) how well donors coordinated, b) whether donors prioritised stability over democracy and c) what forms of support (coercive vs. cooperative) donors employed.

For Kenya and Kyrgyzstan, similar milestones in their democratisation processes were investigated and compared. The focus lay on whether donors contributed to 1) ending and overcoming interethnic violence, 2) restructuring the political systems through new constitutions and 3) holding elections after violence had taken place.

This study consists of five chapters beyond the introduction. Chapter 2 puts forward the underlying theoretical framework and deduces the three hypotheses on factors that can help to explain the effectiveness of international support to peace and democracy. Chapter 3 analyses the Kenyan case, whereas Chapter 4 presents the case study on Kyrgyzstan. Chapter 5 combines the insights from the two country cases to appraise the hypotheses. The final chapter summarises the main results of the study and puts forward policy recommendations based on these findings.

## 2     Theoretical framework and methodology[1]

### 2.1    Theoretical framework

The research that underlies this study is guided by several theoretical assumptions that pertain to the analysis of external support to peace and democracy. First, political change, such as a peace and democratisation process, is an inherently domestically driven process – it is decided upon and executed, but also constrained, by local actors and institutions. Second, social phenomena – such as political change – are shaped by the dynamic interaction between human agency and historically established structures (Hall & Taylor, 1996; Sanders, 2008; Scharpf, 2000; Steinmo, 2008). Third, institutional stability may be interrupted by a relatively brief period of contingency, during which the institutional setting is in flux (Capoccia & Kelemen, 2007; Mahoney, 2001). Following Mahoney, it is reasonable to assume that in these periods critical junctures significantly determine the future development of a country. Mahoney defines critical junctures as *"choice points that*

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1    The research design and thus content of Chapter 2 is the result of collaborative work with Jörn Grävingholt, Julia Leininger and Karina Mroß.

*put countries (or other units) onto paths of development that track certain outcomes – as opposed to others – and that cannot be easily broken or reversed"* (Mahoney, 2001, p. 7).

This definition highlights that to constitute a critical juncture, an event has to have had a significant impact on the larger (political) process. Critical junctures contribute to future path dependencies, generating institutional or structural patterns, which cannot be easily altered afterwards (Mahoney, 2001; Wolff, 2013). Although some scholars metaphorically refer to critical junctures as "moments", the term is generally employed for periods, which can also take place over several years (Capoccia & Kelemen, 2007). Critical junctures can be positive (e.g. free, fair and undisputed elections) or negative (e.g. electoral violence), and accordingly impact positively or negatively on a general process (such as democratisation), although by definition a different outcome had likewise been plausible at the time.[2]

A final, central assumption of this paper holds that – in consequence of the above – crucial external support to the development of peace and democracy in a country must have left its mark on those critical junctures. Conversely, if external engagement had a significant influence on a specific critical juncture, arguably it also impacted the larger political process.

*Hypotheses: The effectiveness of external support to peace and democracy*

Having established that external actors can influence domestic peace and democratisation processes, this chapter presents three hypotheses on factors that can make external support to such processes more effective. The hypotheses regard different dimensions of external support – strategy, organisation and forms of support – and provide potential explanations for the success or failure of international engagement. Before deriving the three main hypotheses from the academic literature on external support to peace and democratisation processes as well as ongoing policy debates, several core concepts used in this paper need to be clarified, namely "democracy", "democratisation", "democracy support", "peace" and "peace-building".

The concept of "democracy" used in this paper is based on Dahl's famous minimal definition of polyarchy, which concentrates on participation and contestation as key aspects, but also includes civil rights and the rule of law (Dahl, 1971). "Democratisation" refers to a positive change in regime quality on a scale from autocracy towards democracy. "Democracy support", following Carothers (1999), regards *"aid specifically designed to foster opening in a non-democratic country or to further a democratic transition in a country that has experienced a democratic opening"*.

The definition of "peace" follows Galtung's concept of negative peace, *"which is the absence of violence, absence of war"* (Galtung, 1964, p. 2). This understanding of peace corresponds with the World Bank definition of the absence of organised violence, which is described as

> *the use or threat of physical force by groups including state actions against other states or against civilians, civil wars, electoral violence between opposing sides, communal conflicts based on regional, ethnic, religious, or other group identities or competing economic interests, gang-based violence and organized crime, and international, nonstate, armed movements with ideological aims* (World Bank, 2011, p. 39).

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2   Furthermore, critical junctures can also come about through "non-events". Extending the idea of critical junctures to non-events is important, because preventing a possible outcome has just as much impact as actively producing an event that would not otherwise have taken place.

This concept of peace is often referred to as "stability" in the political discourse, which is why the two concepts are applied interchangeably. When identifying and analysing "international support to peace", the definition of "peace-building" by former UN Secretary-General Boutros-Ghali (1992) is used, which focusses on *"action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict"*.

*Dealing with trade-offs: Supporting peace or democracy*

Donors face a common dilemma in post-conflict societies: although they may wish to support democracy and peace at the same time, what is good for the latter may jeopardise the former, and *vice versa*. This dilemma figures prominently in the academic debate on the relationship between democratisation and intrastate peace.

Most importantly, Mansfield and Snyder (2002, 1995, 2005) call attention to the fact that democratisation might not be conducive to peace and, on the contrary, may even have destabilising effects. In line with this argument, Hegre Ellingsen, Gates, and Gleditsch (2001) demonstrate an inverted U-curved relationship between democracy and civil war: whereas established democracies and entrenched autocracies experience less civil war, anocratic regimes are particularly vulnerable to civil conflict. A more recent study by Cederman, Hug and Krebs (2010), using a new measurement of regime change, supports the relationship between democratisation and civil war.

However, others argue that, in the long term, democratisation is the most reliable path towards stable domestic peace. Goldstone and Ulfelder (2004, p. 19), e.g., conclude that *"liberal democracy is a powerful means of enhancing a country's political stability"*. Furthermore, several authors convincingly criticise the quantitative studies, such as by Hegre et al. (2001) e.g., on methodological accounts. Using Polity IV to measure democracy creates an endogeneity problem: countries are coded as "anocratic" or "democratising" if they experience political violence. Once this measurement error is accounted for, the relationship between regime type and civil war no longer holds (Narang & Nelson, 2009; Vreeland, 2008). In academia the debate on whether democratisation significantly and systematically fosters instability is hence not fully concluded. However, the more general notion that democratisation can foster instability seems undisputed.

How can external actors deal with the dilemma posed by these findings? Mansfield and Snyder (2007) argue that international actors should focus on building state institutions and the rule of law before supporting democratisation. Similarly, Paris (2004) argues that external interventions in post-conflict situations should focus first and foremost on increasing the capacities and stability of the state. This is because functioning state institutions are needed in order to settle political, social and economic conflicts, which are inherent to transition processes, in a non-violent manner. This emphasis on building strong and capable state institutions before introducing democracy has been advocated by numerous scholars, also with regard to fragile states more generally (Chesterman, Ignatieff, & Thakur, 2004; Fearon & Laitin, 2004; Fukuyama, 2004; Ottaway, 2002; Ottaway & Mair, 2004; Paris, 2004). A prominent critic of the institutionalisation before liberalisation doctrine, Carothers (2007) claims that even if emerging democracies struggle with strengthening state institutions and the rule of law, they are better equipped to respond to the challenges of state fragility than their autocratic counterparts. He instead

calls for a gradualist approach to democratisation in fragile contexts *"which aims at building democracy slowly in certain contexts, but not avoiding it or putting it off indefinitely"* (Carothers, 2007, p. 6).

By now, an awareness for the existence of trade-offs or conflicting objectives between peace on the one hand and democracy on the other exists – within academia as well as in policy circles (see e.g. de Zeeuw & Kumar, 2006; Leininger, Grimm, & Freyburg, 2012; Organisation for Economic Co-operation and Development / Development Assistance Committee [OECD/DAC], 2010). Although the right timing and approach remain matters for debate, there seems to be a consensus that donors should prioritise[3] a stable institutional environment in order to reduce the risk of instability, which would endanger both democracy and peace (Burnell, 2007b; Diamond, 2006). Given that this approach is increasingly pursued by international actors, it is interesting to assess whether prioritising stability has indeed had positive effects. Based on the debates described above, the following hypothesis for international support in fragile states is deduced:

*Hypothesis 1: Effective democracy support requires prioritising stability in fragile contexts.*

*Cooperative vs. coercive forms of support*

Furthering peace and democracy in a country is often not possible without institutional change, such as governance reforms or building new institutions, that can incorporate formerly warring parties into the existing political system. The qualitative literature in particular has consistently reiterated that political will in a given country is a quasi necessary condition to successfully support such institutional change (Burnell, 2007a; Fortna & Howard, 2008; OECD/DAC, 2011; Schraeder, 2003). Depending on whether local and international approaches regarding the next steps in the peace and demo-cratisation process concur or not, external actors can choose to employ different forms of support – coercive or cooperative instruments. Cooperative instruments[4] are based on consent from both sides, usually manifested in an agreement in which the external actor is asked for assistance. The advantage here is that external engagement is met by a certain level of local political will. But external actors can also use coercive instruments[5] when the interests of the two sides strongly diverge. This mostly means trying to pressure or force unwilling governments (or other major political actors) to either embrace reforms or at least refrain from, or undo, steps that may endanger peace or democracy. Such a coercive approach should make external support to peace and democracy more difficult, as it is met with resistance and often implies imposing institutional change rather than supporting the drive for it from within a country.[6] No literature systematically compares

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3   A strategy of prioritisation implies giving "one goal precedence over another" (Grimm & Leininger, 2012).
4   Such instruments include: mediation and political dialogue, consent-based peace-keeping, democracy assistance and state-building support (including technical assistance and funding).
5   Coercive instruments include military interventions, peace enforcement by the UN, negative conditionalities, sanctions or other forms of political pressure.
6   In reality, coercive instruments and cooperative instruments cannot be neatly separated, but often overlap or are used jointly. For example, international mediation is not possible without the consent and participation of the two warring parties. However, threatening sanctions can be an important instrument to keep all parties at the negotiation table. It is differentiated between the two based on whether the instrument was initially based on consent, but the possible interaction of the two forms of support is fully acknowledged.

these different types of support (coercive vs. cooperative). However, empirical research does provide insights into the effectiveness of particular instruments.

Two coercive instruments – sanctions and aid conditionalities – illustrate why coercive forms of support may not be effective. The academic literature has largely come to pessimistic conclusions regarding the effectiveness of sanctions (Cortright & Lopez, 2002; Hufbauer, Schott, & Elliott, 1985; Strandow, 2006; Vines, 2012).[7] Reasons explaining this lack of impact include the long preparation phase for installing effective sanctions, the lack of political will to fully enforce them as well as unintended negative effects, such as humanitarian crises or greater internal cohesion as a result of external threats (Drezner, 2003; Vines, 2012). Similarly, beyond the success of political conditionality employed by the European Union (EU) towards accession states, the effectiveness of conditionalities remains unclear (Grabbe, 2006; Schimmelfennig, 2005a, 2005b; Youngs, 2010).[8] Interestingly, the academic literature does not dismiss political conditionalities *per se* as being ineffective, but rather emphasises the weak enforcement of conditionalities as one of the main reasons why they do not succeed (Boyce, 2002, 2003; Crawford, 1997; Emmanuel, 2010; Frerks & Klem, 2006; Goodhand & Sedra, 2007).

In contrast, some of the more cooperative measures for external actors to support peace and democracy have been shown to be effective. Regan and Aydin (2006), e.g., find that diplomatic interventions are significantly associated with shorter civil conflicts.[9] What is more, several authors argue and prove that external actors make peace agreements after civil war more durable (Fortna, 2003; Hartzell, Hoddie, & Rothchild, 2001; Mattus & Savun, 2009; Walter, 1997). Several analyses, both quantitative and qualitative, find a positive relationship between consent-based peace-keeping[10] and the duration of peace after civil war (Doyle & Sambanis, 2000, 2006; Fortna, 2004). With regard to democracy, several studies find a positive effect of democracy assistance – again a cooperative instrument – on a country's level of democracy (Finkel, Pérez-Liñán, & Seligson, 2006; Kalyvitis & Vlachaki, 2010). And even in highly authoritarian settings, social interaction and cooperation can subtly change the attitudes of political actors through socialisation (Freyburg, 2010).

The high relevance of domestic ownership for peace and democratisation processes strongly suggests that cooperative forms of support should be more effective. Several coercive forms of support, such as sanctions or conditionalities, have so far failed to consistently prove their impact on either peace or democracy. Finally, external actors have been shown to have a decisive, positive impact on these processes through cooperative forms of support, such as diplomacy, democracy support or peace-keeping. However, it

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7  Newer research that distinguishes between the effect of threatened sanctions and imposed sanctions might offer new insights in this regard (Drezner, 2003).

8  We follow the definition put forward by Frerks and Klem (2006): *"Conditionality is the promise or increase of aid in case of compliance by a recipient with conditions set by a donor, or its withdrawal or reduction in case of non-compliance."* This definition captures the carrot-and-stick approach inherent to using both negative and positive conditionalities.

9  This is particularly noteworthy because external actors' military interventions into civil wars have often failed to bring about peace. In fact, a vast body of quantitative research on civil war duration clearly shows that military interventions prolong civil wars (see e.g. Doyle & Sambanis, 2000; Mason & Fett, 1996; Regan, 1996).

10  Doyle and Sambanis (2000) and Fortna (2004) differentiate three types of consent-based peace-keeping: monitoring or observer missions, traditional peace-keeping and multidimensional peace-keeping. In contrast, a coercive UN instrument that is not based on consent is so-called peace enforcement.

has not been systematically analysed whether one form is generally more effective than the other when it comes to supporting peace and democracy. The following proposition is therefore tested:

*Hypothesis 2*: *Cooperative forms of support to democracy and stability are more conducive to the effectiveness of this support than coercive and conditioned forms.*

### The role of donor coordination

Donor coordination has been one of the main topics of debate among Western donors in recent years. This stems from the realisation that the excessive fragmentation of aid has regularly impaired aid effectiveness in individual countries (Easterly & Pfutze, 2008; Lawson, 2013). For this reason, donors agreed on principles to improve the consistency and coordination of aid, as set out in the Paris Declaration on Aid Effectiveness (2005) and the Accra Agenda for Action (2008). In practice, the extent of donor coordination varies widely.[11]

A first argument for coordination is a rather practical one – well-coordinated support should help to avoid duplications (Lawson, 2013). In many countries a whole plethora of bi- and multilateral donors, international non-governmental organisations (INGOs), non-governmental organisations (NGOs) and implementing agencies work on development issues. In Vietnam in 2002 alone, Acharya, De Lima, and Moore (2004) counted 25 bilateral donors, 19 multilateral donors and 350 INGOs implementing a total of 8,000 projects. In this context, donor coordination, implying a division of labour, can be essential to avoid duplications and hence make support for peace and democracy more efficient. This is even more so, since a multiplicity of uncoordinated donors working on similar issues can easily become problematic by overburdening the absorption capacity of a country.

More importantly, donor coordination might help raise the *effectiveness* of international support for peace and democracy. This argument is based on the assumption that coordination can enhance coherence. Donor coherence implies that all donor policies further the same goal, or at the very least that their approaches do not conflict with or counterbalance each other. This point becomes particularly clear by looking at the effectiveness of conditionality: only when supported by all relevant donors can conditionality function properly, because otherwise recipient governments can simply pit one donor against the other (Boyce, 2002; Crawford, 1997; Emmanuel, 2010; Faust, Leiderer, & Schmitt, 2012).[12]

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11 Pietschmann (2014) differentiates between coordination through communication, cross-sector division of labour and the pooling of resources. What can be found in almost every country today is coordination through communication, in which donors regularly meet with or without the local government to exchange information, both at the national and sector levels (Pietschmann, 2014). Cross-sector division of labour implies that donors concentrate their work on specific sectors only and divide tasks in a way that all sectors are covered but duplications are avoided. Pooling resources is usually associated with the highest degree of donor coordination. Jointly planned and managed multi-donor trust funds, e.g., have become increasingly popular in fragile states. Apart from enhancing effectiveness, they can provide a forum for continuous policy dialogue and joint decision-making processes, thus facilitating more coherent engagement (OECD/DAC, 2011, p. 82).

12 An exception to this argument is the case in which one powerful donor has the necessary leverage to enforce conditionality on its own. In reality, however, this is rarely the case. What is more, frequently

Generally, many authors recommend better donor coordination as a means of raising the effectiveness of international support to peace and democracy (see de Zeeuw & Kumar, 2006; Grimm & Leininger, 2012; Paris, 2009).[13] Several theoretical studies emphasise the transaction costs that poor coordination creates for both sides (Bigsten & Tengstam, 2012; Easterly, 2007; Kanbur, 2003; Torsvik, 2005).[14] Empirically, donor coordination remains largely understudied. However, first analyses indicate negative effects of a closely related phenomenon, namely donor fragmentation.[15] Thus, Knack and Rahman (2008) show that donor fragmentation decreases the bureaucratic quality of the recipient country. In contrast, Ziaja (2013) finds that whereas donor fragmentation with regard to general aid has a negative effect on democratisation, fragmented democracy support positively influences democratisation.

To summarise, the literature so far has not empirically assessed the impact that donor coordination can have on the effectiveness of international support to peace and democracy. Avoiding duplications, policy incoherence and transaction costs are all good arguments why good coordination should make support to peace and democracy more effective. In line with the above-discussed literature and donor discourse, a positive effect of coordination is expected.

*Hypothesis 3: Higher levels of coordination of support to democracy and stability are more conducive to the effectiveness of this support.*

## 2.2    Methodological approach

In order to test the hypotheses deduced above, this study combines a within-case comparison with a paired comparison between cases. First, several critical junctures in Kenya's and Kyrgyzstan's peace and democratisation processes are analysed and compared with one another to establish whether international actors impacted these processes or not.[16] Second, the paired comparison between the two cases is used to strengthen the test of the hypotheses, i.e., the factors explaining impact.

*Selection of cases*

The case studies of Kenya and Kyrgyzstan presented here form part of a larger research project, which builds upon a quantitative typology of state fragility developed by

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the most important donor in a country is actually the one standing in the way of efficient conditionalities, by refusing to join other donors who are trying to impose them (see Emmanuel, 2010).

13    Potentially, coordination could also do more harm than good: a recent evaluation claims that coordination slowed down donors' capacity to react to changing circumstances and therefore restrained state-building activities (Bennett, Alexander, Saltmarshe, Phillipson, & Marsden, 2010).

14    One reason for this lack of research may stem from measurement issues or the fact that, despite donors' declared dedication to the matter, coordination has barely improved (Nunnenkamp, Öhler, & Thiele, 2011; Wood et al., 2011).

15    Donor fragmentation refers to situations in which a very large number of donors are active in a country. Although fragmentation cannot be equated with problematic coordination, the challenges of coordinating increase as the donor landscape fragments.

16    I acknowledge that the analysis presented here does not deliver an encompassing analysis of the entire political processes in the two countries and external contributions to it. Rather, the critical junctures represent systematically chosen events, within which external engagement and its effect were traced and analysed.

Grävingholt et al. (2012). This typology clusters countries according to three dimensions of statehood: capacity (provision of basic life chances), authority (control of violence) and legitimacy (citizens' trust in the state). It finds that four groups of fragile states can be empirically distinguished: three groups each with serious deficiencies in mainly one out of the three dimensions of statehood, and one group in which deficiencies in all three dimensions co-occur. Kenya and Kyrgyzstan represent the category of states with a particular deficit with regard to legitimacy.

Aiming to learn from situations in which international actors (could have) had a positive impact, relatively successful cases (with regard to peace and democracy) were chosen in which external engagement was highly likely to have tried to influence the consequent political process. This meant that further selection criteria for the case studies were a key event in the past 15 years, followed by a leap in the country's level of governance (i.e. stabilisation and/or democratisation), as well as a significant increase in support to peace and democracy thereafter. This does not mean that the case selection is biased due to choosing cases from the dependent variable (in this case a positive peace and democratisation process). In fact, the main level of analysis lies one level deeper, namely in the comparison of different critical junctures. Since these often represent both positive and negative outcomes, a wide variety of outcomes were analysed and compared.

*Selection of critical junctures*

In line with the main assumption that domestic processes shape democratisation and stability, this study takes the domestic political process as its starting point in order to analyse the impact of international interventions. In order to determine the specific focus of each case study, a limited number of critical junctures had to be selected for in-depth analysis. For this reason, first, a preliminary list of about 15 potential critical junctures was compiled on the basis of extensive literature studies. Second, an online survey among mainly academic country experts (both domestic and foreign) helped to identify which events a) were truly decisive for the peace and democratisation process and b) experienced at least a minimal level of external support.[17] The results of the online survey can be found in Annex 2. Finally, the selection aimed to ensure that critical junctures – both for the democratisation and peace processes – were chosen, and that, if possible, rather similar critical junctures were selected for the two countries in order to allow for a better comparison.

Based on this procedure, three critical junctures were selected for Kenya (ending interethnic violence in 2008, the adoption of a new constitution in 2010 and the 2013 elections) and for Kyrgyzstan (ending and overcoming the interethnic violence of June 2010, the adoption of a new constitution in 2010 and the parliamentary elections in 2010).

*Analysis of critical junctures*

The case studies consist of in-depth analysis of these six critical junctures. Next to written sources, the findings are based on 80 semi-structured interviews conducted in Nairobi and

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17 Making the existence of external support a selection criteria for the critical junctures was necessary to ensure that it would be possible to analyse external engagement in the first place. This does not mean that other events were not seen as critical junctures. However, if they were not marked by significant external engagement, no lessons or analyses of donor engagement and its impacts could have been drawn, making the research obsolete.

Bishkek with national and international stakeholders and analysts in May and September 2014, respectively.[18] Interlocutors were national stakeholders from the government, administration and civil society (including think tanks and the media) as well as international representatives from the diplomatic and donor communities (including bi- and multilateral donors as well as INGOs).

In each critical juncture, the analysis follows four steps. The first step assesses the relevance and impact of the juncture on the overall peace and democratisation process. The second step analyses the evolution of the critical juncture by identifying the main processes, actors and decisions that led to the particular outcome. The third step is an in-depth analysis of donor engagement in the critical juncture. The question in this third step is whether donors contributed to the achievements and failures of the juncture, and if so, to which ones, how and to what extent. International actors are considered to have had an impact on a critical juncture if their activities were among those factors that help to explain this particular juncture, one of its main components or outcome. If the outcome would have been decisively different without international actors, it can be establish that external actors had a strong impact on the critical juncture, and thereby on the overall peace and democratisation process. Methodologically speaking, with the help of the interviews, process-tracing is used to establish whether donor engagement made a crucial contribution (positive or negative) to each critical juncture. The fourth step in the analysis tests whether the hypotheses, which put forward factors that should explain success or failure of support, are confirmed or refuted.

# 3    Kenya

## 3.1    The Kenyan political process 2002–2013

The year 2002 marked a historical moment in Kenya's political history: for the first time since independence, the opposition succeeded in relatively free and fair elections. Prior to the elections in 2002, Kenya had been governed by the same party, the Kenyan African National Union, for 43 years, first by Jomo Kenyatta, and after his sudden death in 1978 by Daniel Arap Moi. Internal and external pressure forced Moi to introduce multiparty elections in the early 1990s (Barkan, 1993; Cottrell & Ghai, 2007). Nevertheless, Moi was able to hold on to power due to flawed elections and a disunited opposition both in 1992 and 1997. In 2002 the constitution prohibited Moi from running for office again. His chosen successor, Uhuru Kenyatta, was challenged by Mwai Kibaki, the joint candidate of the National Rainbow Coalition, a coalition combining 15 opposition parties (Murunga & Nasong'o, 2006). The elections in 2002 resulted in a landslide victory for the opposition: Kibaki garnered 62.2 per cent of the votes in an election that was relatively peaceful, free and fair. It is for this reason that the elections in 2002 have been described as *"the most significant political event in the history of Kenya since British colonial rule formally ended in December 1963"* (Ndegwa, 2003, p. 145).

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18    As many interviewees agreed to be interviewed only on the condition that they remain anonymous, the interviews are denoted solely by an ID number. Annex 1 provides generic information on each interviewee's background. Interview transcripts and information on the identity of interviewees are stored at DIE in accordance with the institute's policy on good academic practice.

With his victory Kibaki made the promise to tackle some of the most pressing issues in the country: a new constitution significantly reducing the powers of the president, free primary education and combating corruption. However, Kibaki soon began to renege on his elections promises. In 2005 a participatory constitutional conference produced the "Bomas draft", which suggested radical constitutional reform, including a dual executive and devolution. Instead, Kibaki endorsed the revised and strongly watered down "Wako draft". This version was presented to the public in a national referendum in 2005 and was clearly rejected by the people, with 58 per cent voting against it (International Crisis Group [ICG], 2008a). As a consequence Kenya was not only left with the same constitution from 1963, but the National Rainbow Coalition, which had enabled the opposition victory in 2002, also broke apart.

The main presidential candidates in the elections of 2007 were Kibaki, representing the Party of National Unity (PNU), and Raila Odinga of the Orange Democratic Movement (ODM) (Dercon & Gutiérrez-Romero, 2010).[19] Polls had indicated that the presidential race would be extremely close but showed Odinga holding a small (although possibly insignificant) lead. The elections initially proceeded rather peacefully. First incoming votes showed Odinga in the lead, but as more votes were counted, Kibaki caught up and eventually overtook him. After the elections, suspicions of fraud rose dramatically due to two reasons: first, despite having supposedly lost the presidential race, Odinga's ODM had secured significantly more parliamentary seats than Kibaki's PNU; second, although the voting and counting seemed to have proceeded in order, clear irregularities had become known with regard to the tallying of votes (Gibson & Long, 2009; ICG, 2008a).[20] The final results presented by the Electoral Commission of Kenya indicated a close race, with Odinga receiving 4.3 million votes and Kibaki 4.5 million (Gibson & Long, 2009). Despite allegations of fraud from national and international observers, Kibaki was declared the winner of the elections on December 29 and quickly sworn into office (Brown, 2009; ICG, 2008a). Violence erupted immediately afterwards, taking on three forms: *"battles between government officers and ODM supporters; between members of both main political coalitions; and between various ethnic communities"* (Gibson & Long, 2009, p. 5).[21] The violence was triggered by flaws in the electoral process, a tight result and distrust in the Electoral Commission of Kenya and the judiciary[22] – the institutions responsible for conducting the elections as well as deciding on the rightfulness of the results. Although triggered by disputed elections, the severity and duration of the violence stemmed from historical grievances connected to land issues, inequality and ethnicity, which have been reinforced in Kenya for decades due to the overly powerful presidency and the economic benefits connected to it. The post-electoral violence left more than 1,000 dead and 300,000 displaced. This unexpected outbreak of violence made clear that *"Kenyan 'democracy' was clearly neither as stable, nor as consolidated, as many had dared hope just days before"* (Branch & Cheeseman, 2008, p. 2).

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19   The third candidate was Musyoka, who had split from the ODM and created his own party, the ODM-D.

20   Actually it is impossible to know for sure who won the elections in 2007 because a recount never took place. Based on exit polls, Gibson and Long (2009) show that it is indeed possible the Electoral Commission of Kenya might have announced the wrong winner.

21   Whereas in 2002 two Kikuyu candidates (Kenyatta and Kibaki) had run for the presidency, in the elections of 2007, a Kikuyu (Kibaki) was challenged by a Luo (Odinga).

22   In the run-up to the elections, Kibaki had replaced 19 of 22 election commissioners, and five new High Court judges were appointed by him just two days before the election, raising concerns about their fairness (Branch & Cheeseman, 2008).

International mediation was instrumental in ending the violence. An international team of the African Union, headed by former UN Secretary-General Kofi Annan, led week-long negotiations between the political opponents. Calm was finally restored after the signing of a peace and power-sharing agreement on 28 February 2008 (Chege, 2008). In April a national unity government was created with Kibaki as president and his rival Odinga as prime minister (Markussen & Mbuvi, 2011). The mediation process led to several important reform steps and commissions: the Kriegler commission investigated the conduct of the elections; the Waki commission led investigations into the root causes of the electoral violence; a Truth, Justice and Reconciliation commission was established; and a constitutional review process was initiated.

Despite doubts about the government's dedication to true political reform, a major milestone was reached in 2010: a new constitution passed a national referendum with overwhelming support of 68 per cent. A team of national and international experts was able to draw together a draft incorporating three earlier versions in less than a year; it was discussed with the public and approved by parliament. Although Kenya's political regime remained a presidential system, the constitution provided for several far-reaching reforms: a strong decrease in the powers of the president, devolution, reforms of the police and the judiciary as well as Kenya's first bill of rights (Kramon & Posner, 2011).

Despite fears it would be otherwise, the presidential elections in 2013 remained peaceful. Uhuru Kenyatta, together with his designated deputy, William Ruto, was able to pass in the first round by a very slim margin of 50.51 per cent.[23] Their opponent, Odinga, appealed against the result in the Supreme Court but accepted its ruling that Kenyatta was the rightful winner (Long, Kanyinga, Ferree, & Gibson, 2013). Although the alliance between Kenyatta (Kikuyu) and Ruto (Kalenjin) may have contributed to less ethnic polarisation during the elections, this alliance was a direct result of charges against the two leaders before the International Criminal Court (ICC): Kenya's new leaders both faced trials in The Hague for crimes against humanity committed in connection with the 2007 violence.[24] Due to technical problems in the elections of 2013 and a disputed ruling on the rightfulness of the results, trust in important institutions, such as the new electoral commission and the judiciary, once again decreased. Hence, many challenges to peace and democracy remain in Kenya today, seriously threatening stability in the long term: the implementation of the constitution as well as the root causes of the conflict in 2007, which remain unaddressed – corruption, land reform, impunity, ethnic tensions, poverty and inequality (ICG, 2013).

Donors have been active in Kenya for more than a decade. A notable decrease in aid flows took place in the early 1990s in response to spreading dissatisfaction with Moi's authoritarian slide, but aid has been rather consistent since 2002 (Mwega, 2009). Kenya does not constitute a highly aid-dependent country: aid shares to gross national income were around 4 per cent in 2006 and 7.1 per cent in 2012.[25] Kenya has witnessed a strong increase in the number of donors in the country since 2000. Analysing only the industrial and the governance sector, McCormick and Schmitz (2011) count 10 donors in 2000, and already 28 in 2005. Today, virtually every large bi- or multilateral donor is active in

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23  In the run-up to the elections in 2013, Kenyatta and Ruto formed a political coalition, "the Jubilee Alliance", and henceforth ran together with Kenyatta as the presidential candidate and Ruto as his designated deputy.

24  The case against Kenyatta was dropped in late 2014.

25  Data in this paragraph was retrieved from http://www.oecd.org/dac/stats

Kenya – in 2012, there were 23 donors supporting the governance sector alone. The largest donors (of gross official development assistance) in 2012 were the United States, the World Bank, the International Monetary Fund, Germany and Japan. Among non-traditional donors, China in particular is becoming increasingly active (Mwega, 2009). Sector-wise, the largest shares of aid go into health, infrastructure and humanitarian aid.

With regard to the three dimensions of statehood, Kenya has consistently struggled with state legitimacy. Generally, the state is able to exercise its monopoly of violence and is not contested by armed groups.[26] State capacity is an area of concern – in 2012 Kenya ranked 145th of 208 in the Human Development Index. Poverty in remote and rural areas as well as slums remains high. Most importantly, citizens do not trust the state and its institutions. This became painfully obvious in the 2007 elections, in which the state experienced a legitimacy crisis. Initially, the adoption of the new constitution and several governance reforms after 2010 increased citizen trust towards central state institutions (e.g. the judiciary).[27] However, the flawed elections of 2013 might have once again diminished these small gains. Rampant corruption undermines citizen–state relations, Kenya ranked 139th out of 174 in Transparency International's Corruption Perception Index in 2012 and political parties are virtually non-existent. Another important factor undermining legitimacy has been the unequal distribution of resources, and hence strong inequality, which has been present in Kenya for many years. Kenya has struggled with overcoming one-party rule and establishing a democracy; currently, it is classified by Freedom House as being "partly free" – meaning it is neither a full democracy nor a full autocracy.

Of the developments and events described above, three critical junctures were particularly important in shaping Kenya's path of democratisation and peace-building[28]: the ending of interethnic violence in 2008, the adoption of a new constitution in 2010 and the presidential elections in 2013. The following sections analyse each of these critical junctures in detail and discuss whether international actors had a considerable impact on them.

### 3.2 Ending post-electoral violence in 2008

*It saddens me when I see people forgetting the role that Kofi Annan and his team played, because they actually helped Kenya from burning.… Kofi in my view will remain very, very critical in Kenya's history as the man who brought the two leaders of a polarized situation together and made them work together.* (Interview 24)

*I don't know many countries in the world, coming from violence, with a coalition regime and a peace agreement ruling the country that have gone through such massive governance reforms. That is really the credit of Kenya.* (Interview 17)

Triggered by a disputed election and fuelled by historical grievances, violence erupted and spread across Kenya in the aftermath of the presidential elections in 2007. Soon after the

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26 Nevertheless, problems in the realm of authority exist in Kenya: the slow containment of violence after the 2007 elections starkly showed the need for police and security-sector reforms. Furthermore, high levels of criminality and violence rates pose a serious problem in Kenya.

27 For surveys including questions on trust in state institutions, see the monitoring reports of the Kenya National Dialogue and Reconciliation Project at: http://south.co.ke/index.php/projects-and-reports/kndr-project

28 For the steps of selecting the critical junctures, see Chapter 2.

outbreak of violence, international actors tried to set up mediation efforts aimed at finding a political solution to the crisis. The team finally accepted by both sides was the Panel of Eminent African Personalities, headed by Annan.[29] When the team arrived on January 22, the violence had been ongoing for three weeks and already cost hundreds of lives (ICG, 2008a). On January 29 official negotiations began within the Kenya National Dialogue and Reconciliation (KNDR) process (Mkangi & Githaiga, 2012). Mediation was successfully concluded with the signing of the National Accord and Reconciliation Act on February 28, thereby officially ending the violence.

The mediation process strongly impacted both peace and democracy in Kenya. First of all, the mediation agreement ended the post-electoral violence that many felt had brought Kenya to the brink of civil war (Interviews 2, 11, 25). Second, based on the National Accord, a coalition between the PNU and the ODM in the form of a "national unity government" was created in April 2008 and headed by Kibaki as president and Odinga as prime minister. The coalition government lasted until the elections in 2013 and was thereby able to stabilise the situation, not only in the immediate aftermath of the violence but also in the subsequent years (Interviews 4, 24, 25). Third, the mediation agreement initiated a major democratic reform process. The Independent Review Commission, also known as the Kriegler commission, analysed the conduct of the elections, leading to the highly disputed Electoral Commission of Kenya being dissolved. The Commission of Enquiry on Post Election Violence, also known as the Waki commission, investigated the outbreak of the electoral violence. The report stipulated that a national tribunal be set up to prosecute those responsible for the organised elements of violence. However, the parliament refused to do so. As stipulated in the Waki Report in consequence an envelope containing the names of those believed to be most responsible for the violence was passed to Annan and subsequently the ICC, in order to ensure prosecution of those found responsible (Ploch Blanchard, 2013). This strongly impacted the elections in 2013: the winners of the elections were among the names that were passed on and faced trials for crimes against humanity at the ICC. Fourth, a constitutional review process was agreed upon in order to address the root causes of the violence. This process led to the promulgation of a new constitution via a national referendum in 2010, decisively transforming the political institutions governing Kenya: *"The best thing that came out of that is a new constitution that had been on the curve for almost two decades without success"* (Interview 9). In contrast to the Kriegler commission, the Waki commission and the constitutional commission, the Truth, Justice and Reconciliation commission is seen as having been significantly less successful (Interviews 9, 34). Not only did it take considerably longer for the commission to produce a report than initially envisioned, but the report has so far not had any consequences.

*The successful conclusion of mediation*

Because mediation was accepted by all sides and successfully concluded, violence was brought to an end. This outcome was often attributed to the high-profile and good mediation tactics of the mediation team and Annan in particular (Interviews 19, 24, 25, 36; Call, 2012).[30] Although it was not prominently argued by the interviewees, many of the academics

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29  Kofi Annan was supported by the former president of Tanzania, Benjamin Mkapa, and former South African First Lady Graca Machel.

30  For a detailed analysis of the mediation and different tactics used, see Kaye and Lindenmayer (2009).

writing on the topic believe that international technical support was very important to this end. Throughout the process, international experts, e.g. from the United Nations Development Programme (UNDP), the Red Cross or the German Bundestag, were brought in to lay out options to the negotiation team. Many believe that this strongly helped to depoliticise issues, concentrate the negotiations on technical aspects and thereby help overcome several blockades in the negotiations (Call, 2012; Kaye & Lindenmayer, 2009; Wanyeki, 2012). Several interview partners believed the support of the UNDP's Multi-Donor Trust Fund for National Dialogue and Reconciliation[31] was important (Interviews 18, 19, 25).

What was also considered very important to make the agreement possible – besides the mediation tactics themselves – was the constant pressure from within Kenya and beyond to come to such an agreement. More specifically, the private sector, civil society and the international community regularly pressured the two parties to uphold the mediation process (Interviews 7, 14, 18, 19, 32). For example, the private sector allegedly threatened to stop paying taxes if negotiations were to break down (Interview 18). Similarly, when negotiations stalled, foreign ambassadors supported the team with the slogan "Don't let Kofi go" (Interview 19), and 15 bilateral donors signed a joint declaration urging protagonists to come to a political settlement (ICG, 2008a). Also, threats of travel bans and freezing of assets were important, as they reportedly *"softened their hearts towards coming to a dialogue table"* (Interview 18) (see also Interview 19; Brown, 2009; Jepson, 2014; Kaye & Lindenmayer, 2009; Wanyeki, 2012). Many interviewees claimed that international pressure was among the factors keeping all sides at the negotiation table (Interviews 7, 10, 14, 19, 26; Brown, 2009). This was only possible because the international community stood united in pressuring for a negotiated settlement of the electoral dispute.

Interestingly, the international community was initially divided with regard to the outcome of the elections. When Kibaki was hastily sworn in, two countries immediately sent congratulatory messages – Uganda and the United States (Interview 10).[32] However, rather than isolating themselves from the international community's stance, the United States quickly recalled the statement (citing a low-ranking government official working on the weekend as the cause) and joined the position of the majority of diplomatic missions, namely that the fairness of the elections was doubtful (Brown, 2009). Furthermore, a united international community was specifically promoted by Annan (Interview 19; Brown, 2009; Jepson, 2014). Therefore, during the mediation process, the international community stood united behind the African Union Panel of Eminent African Personalities.

*The comprehensiveness of the mediated agreement*

Not only did the mediation process result in a power-sharing agreement, which was necessary to stop the violence, but it also foresaw a series of substantial governance reforms that aimed to decrease the likelihood of violent conflict in the future (Kanyinga & Walker, 2013). This included commissions to investigate the disputed elections (Kriegler commission), the violence (Waki commission), past human rights abuses (Truth, Justice and Reconciliation commission) as well as a commission tasked with writing a new constitution.

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31  This fund was initially supported by 11 donors: United States, United Kingdom, EU, France, Sweden, Norway, Germany, Denmark, Netherlands and Qatar.

32  It is said that the Americans were never supportive of Raila Odinga – his father was a known communist, and he himself had studied in East Germany for many years (Interview 18). It thus seems as if initially the United States was keen to legitimise Kibaki as quickly as possible (see also Brown, 2009).

What explains the comprehensiveness of the agreement that came out of the mediation process? Again, many interviewees credited Annan personally for having foreseen – and pushed for – such an encompassing agreement (Interviews 30, 36). What probably influenced this decision was that, in the first week of negotiations, the mediation team met with several important groups in Kenya – civil society, the media and the private sector – to hear about the long-term grievances in the country (Interviews 7, 19, 30; Jepson, 2014). Also, there seems to have been local ownership for at least some of the commissions (in particular the commission to investigate the disputed elections), whereas the political backing for the other ones was not as strong: *"These were things that the political elite accepted to half-heartedly, and they didn't know the full magnitude of where some of these processes would lead"* (Interview 18) (see also Interview 19). Although not all commissions were equally successful, it should be viewed as a success that both parties agreed to a comprehensive peace agreement. Thereby, mediation contributed to initiating a comprehensive reform process in the country.

*Mediated agreement upheld*

In order to prevent another outbreak of violence, it was essential to uphold the mediated agreement. Two factors explain why the agreement was upheld. First, the power-sharing agreement was beneficial to both sides of the conflict. Both conflicting parties were now in power, and a very large cabinet of more than 40 ministers was created to accommodate everyone (Interviews 10, 30). Although the coalition government can be criticised for its immobility, it did keep the two warring sides working together for the next four years, and most of the reforms that were agreed upon within the KNDR did go through.[33] Second, there was a strong sense that if one side were to renege, this would be *"seen as unreasonable and not keeping Kenyans' interests at heart"* (Interview 26). A fallout or pulling out of the arrangement by one side would have considerably weakened its support among the population, in particular if it ended in renewed violence (Interviews 7, 10, 24, 26, 30). Upholding the agreement – and subscribing to constitutional reform in particular – was important for political leaders to restore their legitimacy in the eyes of the population.

Beyond the domestic factors explaining why the comprehensive peace agreement was upheld, international engagement also supported this outcome. The Panel itself stayed highly active after the agreement had been signed, e.g. it *"issued implementation reports and made statements at crucial moments to remind the parties of their obligations and support civil society's monitoring efforts"* (Call, 2012, p. 9). Furthermore, donors were praised for their projects that went beyond supporting the immediate mediation efforts (Interviews 10, 26, 36). For example, UNDP[34] and many others continued to support the implementation of the mediation agreement through support to the various commissions. Additionally, a Coordination and Liason Office was created in August 2008 as a permanent office of the Panel on the ground and specifically mandated to monitor and support the implementation of the agreement until the next elections (Interview 19; Call, 2012). The international community thereby played an important role in not only enabling the agreement but also ensuring that it was upheld: *"the international community's unified*

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33  Allegedly the US in particular applied pressured for a power-sharing agreement (Interview 18). However, this information could not be further corroborated, which is why it remains unclear as to how much international actors are responsible for promoting this structure.

34  Now supported by the United States, United Kingdom, Norway, Netherlands, Sweden, Australia and Canada.

*backing, both through public support and funding and through behind-the-scenes pressure, ensured that the process stayed on track"* (Kanyinga & Walker, 2013, p. 11).

*Conclusion*

Almost all respondents were purely appreciative and offered positive evaluations of the mediation process.[35] International actors were of crucial importance in this part of Kenya's history because so many believed that without mediation by the international community, in this case the Panel, the violence would not have ended (Interviews 7, 10, 11, 24, 25, 29; Kanyinga & Walker, 2013; Kaye & Lindenmayer, 2009). Through their *"united, politically oriented approach"* (Kanyinga & Walker, 2013, p. 9), donors were able to have a decisive, positive impact on this critical juncture; without their support the mediation process might have not been successful (Committee of Experts [CoE], 2010; de Zeeuw, 2010; Kaye & Lindenmayer, 2009). It is during this critical juncture in which most interviewees found that donors had really been able to make a major contribution to peace and democracy in Kenya.

| Table 1: Ending post-electoral violence in 2008 | | | |
|---|---|---|---|
| **Main components of the critical juncture** | **Domestic factors** | **International contribution** | **Crucial international contribution** |
| Successful conclusion of mediation | • Pressure by the private sector, churches and civil society | + De-politicisation of negotiated issues through international experts <br> + Pressure by the international community to come to an agreement | + Mediation itself a form of international engagement, which ended violence |
| Comprehensiveness of the mediated agreement | • Civil society invited to meetings with mediation team to lay out main grievances <br> • Local elites partially interested | + Kofi Annan ensures a comprehensive agreement is reached | |
| Mediated agreement upheld | • Agreed upon power-sharing beneficial to main political actors <br> • Politicians scared to lose popular support if mediation agreement not upheld | + International programmes and pressure to support the implementation of the agreement | |
| Source: Author's compilation | | | |

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35  Actually, only one interviewee spoke negatively of the mediation process, calling it *"elites resolving the elites' issues"* (Interview 28).

## 3.3    The adoption of a new constitution in 2010

*There was no way out, we just had to get a new constitutional order and bring about a perception of freshness in the running of the affairs of the country.* (Interview 1)

*We were a very optimistic nation in 2010, because we thought that we have done it and crossed the bridge. Somehow after that we began to waver in terms of our resolve to consolidate those pillars of the bridge.* (Interview 15)

It was the tragic events of post-electoral violence that gave the constitutional reform process, meanwhile a pending issue in Kenya for over 10 years, new impetus. Based on the mediation agreement, a Committee of Experts (CoE), composed of five Kenyans and three foreign nationals, was mandated to produce a draft based on a compromise of three earlier drafts (CoE, 2010). The CoE began its work in 2009. In less than a year, it was able to present a draft – first to the public, and then, after incorporating changes stipulated by nation-wide consultations, to the politicians represented in the Parliamentary Select Committee (PSC).[36] Finally, the draft was introduced in parliament – 150 amendments were suggested; however, none of them garnered the 65 per cent of votes necessary to amend the draft. Instead, the unchanged draft was endorsed by parliament in April 2010 (CoE, 2010; Kramon & Posner, 2011).

Interestingly enough, the debates in May in the run-up to the referendum moved away from the stark changes envisioned with regard to the political institutions. Instead, debates evolved around three issues: the acceptance of Muslim courts (*Kadhis*), abortion and land rights (Kramon & Posner, 2011; Mkangi & Githaiga, 2012). However, both Kibaki and Odinga endorsed the draft and campaigned for its adoption (Barkan & Mutua, 2010). In the end the referendum was successful, with 68 per cent voting for the new constitution.[37] In August 2010 Kibaki signed the new constitution, which was thereby officially promulgated. The many important new stipulations in the constitution include: a significant reduction in the powers of the president, an increase in the powers of the parliament, devolution of the government through 47 counties[38] as well as Kenya's first bill of rights (Barkan & Mutua, 2010). After almost 15 years of constitutional review, Kenya finally had decided on a new political order.

The adoption of a new constitution in 2010 had a relatively strong, positive, short-term impact on stability and democracy in Kenya. When drafting the new constitution, the root causes of – and immediate lessons learnt from – the violence of 2007 were incorporated. The constitution marks a clear step towards democracy and led to a short-term increase in the legitimacy of the political system.

Despite the fact that the constitution has not been fully implemented yet, many interviewees felt that the first impacts of the constitution can already be observed – most importantly, service delivery in rural areas has improved because of devolution (Interviews 7, 10, 13). Many feel that the constitution has brought people closer to their counties and enables a fairer distribution of resources. Also important is the shifting of accountability –

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36    For a detailed explanation of the procedures and different working steps, see CoE (2010).

37    Opinion polls show that people voted "yes" if they wanted change, particularly devolution, to reduce corruption, end impunity, strengthen human rights and establish a new land tribunal. Those who voted no indicated religious reasons, abortion or land issues (Kramon & Posner, 2011).

38    This includes the devolution of power, resources and representation at the local level.

from the national to the local level – which is seen as being stabilising (Interviews 10, 20, 28, 32). Several interviewees stated that the judiciary had become more efficient and independent due to constitutional reform. As a result, popular trust in this important political institution increased (Interviews 7, 14). First effects of the constitution could also be seen in the elections of 2013, as several of the stipulations in the new constitution are among the factors that explain why these elections remained peaceful (Mkangi & Githaiga, 2012). The constitution's attempt to reduce the "winner takes it all" nature of Kenyan politics is considered a powerful tool for fostering stability in the country (Interviews 29, 33, 36).

*A new constitution is written in nine months*

The Committee of Experts that was tasked with drafting a new constitution is generally highly praised for having produced a draft of high quality in a short amount of time (Interviews 10, 11, 13, 17).[39] Part of the reason why the CoE was able to deliver a constitution in only nine months is because there were several previous drafts on which their work was based (Interviews 14, 25). Nevertheless, it remains surprising that the constitution was written so quickly – covert resistance from politicians for endorsing constitutional reform was repeatedly stressed by interviewees and can be traced throughout the entire constitutional review process (Interviews 11, 14, 16, 23, 34).[40] One important point where politicians tried to derail the process was with regard to the CoE. First, certain people were nominated to the CoE because politicians believed they could be easily influenced (Interviews 16, 34) or be used to specifically jeopardise the process (Interviews 23, 26).[41] Second, the CoE had considerable difficulties in receiving the government resources necessary to fulfil their task (Interviews 23, 36). Some even believe that this was intentional: *"the process was supposed to be stillborn"* (Interview 23). One member of the CoE described the situation as follows:

> *The politicians were not convinced of what we were doing at all. And indeed we have it on authority that a lot of the politicians, including the government of the day, had believed that we would be constituted merely as one of the means of fulfilling the mediation process because it was required, but that we would not succeed given the limited time, the limited resources and the situation in the country.* (Interview 16)

Given the many challenges to their work, the CoE has to be credited for producing a draft of high quality in only nine months. The CoE was praised in particular for the extensive outreach strategies it pursued (Interviews 13, 23, 17). In fact, the CoE collected more than a million submissions from the public to this end (Interview 13; Jepson, 2014). Later in the process, this step turned out to be crucial. By involving the public in the drafting process, the CoE was able to mobilise considerable support for their work and the constitu-tion: *"because the public knew exactly what we were doing at every stage, the support became so overwhelming that the leaders would not risk public ridicule and that's really what made us survive"* (Interview 16). At the end of the process a constitution was adopted

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39   For an extensive account of the work of the CoE, see their final report (CoE, 2010).

40   Interestingly, this is detrimental to the way the constitution-writing process is currently being discussed in academic and journalistic circles. Politicians' resistance to the reforms are either not mentioned or because the opposite is argued, namely that everyone agreed that reforms were necessary (Jepson, 2014; Kramon & Posner, 2011).

41   This was never made public by the CoE, which instead worked through the difficulties with certain committee members.

that everyone agrees is of very high quality (Interviews 1, 10, 11, 14, 17, 24, 25, 34) – it has even been called *"one of the most progressive constitutions in Africa"* (Interview 17).[42]

The international community's most important contribution to the constitutional review process lies in its support to the CoE. First, three foreigners were part of the CoE. All of the commissions created through the KNDR process had the same approach with regard to assigning posts – both sides to the negotiations would appoint the local members, whereas Annan would appoint several international ones. The fact that the commission was partially composed of foreigners was considered to be helpful, in particular because it neutralised the fear that the CoE would be partisan (Interviews 13, 16). Second, and most importantly, donors stepped in to fund the CoE and support its outreach strategies when the government was not willing or able to do so (Interviews 2, 16, 23, 36; Kanyinga & Walker, 2013). As one interviewee put it: *"The donor community actually funded and helped bridge the financial gap that occasioned that process. So that funding of the process actually was fundamental, and indeed it made a very big difference"* (Interview 36).[43]

*Politicians agree on a new constitution*

After the CoE had produced a first draft, the second important step in the process was that politicians in the PSC came to an agreement on their version of the draft. That the PSC indeed managed to find a compromise is mainly attributed to Odinga's ODM, which gave in to the PNU's demand for a presidential system[44] (Interviews 18, 30; Jepson, 2014; Kramon & Posner, 2011). Also through the discussions in Naivasha, politicians were able to water down some of the envisioned changes. This decreased the risks these changes could pose to their position and made finding a compromise easier. Nevertheless, politicians agreed to a new constitution that considerably diffuses power.[45] Although it was rightly criticised by many that the PSC made some crucial and disputable changes to the draft (Interviews 11, 13, 26, 34), finding a political compromise was vital in that moment. Had no compromise been found in Naivasha, this could have derailed the entire endeavour. This compromise was then once more given to the CoE, which finalised a draft, which was subsequently passed by the parliament. The draft constitution that was put forward for a popular vote in the referendum had been finalised.

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42  Although most interviewees praised the new constitution, I did encounter different types of criticism as well (Interviews 1, 11, 13, 14, 34). However, there was not a common issue that many interviewees pointed out as being a particular weakness content-wise.

43  CoE members themselves assured me that it would have been very difficult to find a different source of funding. Another question then is: How important were financial contributions to the work of the CoE? Although the impact of providing meeting spaces and offices might be less stark, the extensive outreach strategies certainly would not have been possible without financial support. Furthermore, financial support by the international community most probably also signalled its overall support to the CoE, giving the CoE the assurance it was internationally backed.

44  One interviewee believed that the PNU was actually pushing for the presidential system, hoping to thereby derail the entire constitutional review process (Interview 23). It would then be thanks to Odinga's wish to uphold the coalition government that the process did not derail at this point (Interview 30). For a list of potential reasons why ODM gave in to PNU's demand, see Kramon and Posner (2011).

45  Possible reasons for this are, on the one hand, that the system at the time was highly bipolar – introducing more checks and balances was hence good for both sides, as nobody could be sure about remaining in power (Interview 10). On the other hand, the presidential system would make each of them rather powerful, if indeed they were to succeed in the next elections (Interview 18).

What explains the fact that parliament agreed on a new constitution in 2010? At first glance, the answer seems simple – the violence of 2007/2008 made it clear to everybody that a new constitution, which addressed the root causes of the conflict, was needed for the country (Interviews 10, 16, 30). Whereas this is surely true for how the majority of the population thought, many Kenyan politicians were not much in favour of such drastic constitutional change (Interviews 11, 14, 16, 23, 34). However, politicians knew that people felt that the country needed a new constitution: *"The political environment was right – there was no way this government was not going to deliver a constitution"* (Interview 13). Devolution in particular had been an important topic for Kenyans ever since the nation-wide discussions that led to the Constitution of Kenya Review Commission draft of 2005. Sadly, had violence not happened in 2007/2008, a new constitution would have been highly unlikely for the foreseeable future (Interview 1). As one interviewee put it, the violence in 2007/2008 made Kenyan politicians *"involuntarily open to reforms"* (Interview 3). Although not fully convinced of the necessity of a new constitution, politicians agreed to the draft – an important step in the constitutional review process that, however, was not influenced by international actors.

*A peaceful, free and fair referendum*

The constitutional referendum was held on 4 August 2010. First of all, the referendum remained peaceful (Interviews 6, 31), a fact that many attribute to the less politically charged environment at the time (Interviews 29, 31, 35). The process was generally deemed fair and trustworthy by both international and local observers (Interviews 29, 35). Actually, the Independent Interim Electoral Commission (IIEC) at the time faired so well that the referendum increased the people's level of trust in this institution.

The only larger problem that occurred on the day of the referendum was that parts of the newly employed technology failed. Results were electronically transmitted, with live up-dates of the distribution of votes visible on TV. However, the system jammed and the results were frozen for several hours (Interviews 33, 35). When the system began working again, a significant change in numbers had taken place. The "No" side began arguing that this was deliberate and that the results had been tampered with (Interview 35). The electoral commission then gave local observers the permission to announce their projected results[46] ahead of them (Interviews 29, 33). When the commission announced their final results, the two were practically identical – 65 per cent of the population had voted for the constitution.

With regard to the referendum, the role of the international community was supportive but not crucial to its success. Donors were highly active in supporting civil society's and the CoE's efforts in the area of civic education, in particular through the distribution of the final draft and discussions about its content. The UNDP basket fund Support to Constitutional Review worked with the Interim Independent Electoral Commission to ensure a smooth referendum. Also, platforms such as UWIANO brought together important national institutions and NGOs (the National Cohesion and Integration Committee (NCIC), the National Steering Committee on Peace Building and the local NGO Peace Net) to ensure a peaceful referendum. Despite the fact that institutions such as the IIEC were supported by donors and in general performed rather well, no interviewee saw this international engagement as being particularly crucial in explaining the outcome.

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46    The results had been estimated with the help of Parallel Vote Tabulation.

Donors had a stronger impact on the referendum through a local civil society organisation. Domestic election observation (Elections Observation Group – ELOG) has received not only funding from various donor organisations but also technical support through the National Democratic Institute (NDI). It can be argued that it was indeed important for ELOG to have been able to provide independent verification of the results when the electronic transmission jammed, thereby contributing to a peaceful and fair referendum.

*Constitution adopted by a clear majority of voters*

Certainly, it was also a success that the constitutional review process was finally concluded and that the "yes" side had been able to prevail in the referendum. Was there a real chance that it could have gone the other way? First of all, Ruto was openly against the constitution, aiming to gain a political profile from the process (Interviews 10, 22, 35). Second, land-owners rallied against it out of fear of redistribution (Interviews 7, 32, 34). Third, the churches positioned themselves against it due to the paragraph that allowed abortion in very specific circumstances (Interviews 12, 32, 34).[47] Some also claim that several politicians positioned themselves on the "yes" side during the campaign, but actually financed the "no" campaign (Interview 14; Kramon & Posner, 2011). A strong push for the "yes" side was due to the fact that both Kibaki and Odinga endorsed the draft (Interviews 10, 11, 16, 24).[48] Although this ensured many votes for the "yes" side, some interviewees felt that large parts of the population adopted the constitution only because their leader said they should (Interviews 1, 27, 30). Also, some believe the *"use of the provincial administration and government machinery to campaign for the constitution"* (Interview 33)[49] made a different outcome highly unlikely. Most interviewees believed that it could not have gone the other way easily (Interviews 11, 16). Constitutional review had been an issue in the country for almost 15 years. Already the process under the Constitution of Kenya Review Commission in 2005 had rallied the population behind the idea of a new constitution, which they continued to support in 2010 (Interviews 7, 16, 24). With regard to international involvement, it can be looked upon negatively that some international NGOs continued working with the churches on civic education concerning the constitution, despite their clear stance in the "no" campaign. It was because unbiased civic education could no longer be expected from organisations closely affiliated with the churches that other donors and INGOs instead decided to either halt their civic education activities or to find more neutral partners for this purpose (Interviews 3, 12). However, no clear negative effect of this engagement became apparent.

*Conclusion*

Adopting a new constitution in 2010 was not an easy process, despite the fact that the violence of 2007/2008 should have made it very clear that Kenya needed a new political order. In the end, the Kenyan constitution of 2010 seems to have been more of a "historical accident". The people, not the politicians, wanted a new constitution. For

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47  Many argue that it was not the entire church but rather only the highest level within the church that applied pressure to uphold this position (Interview 16).

48  Kibaki and Odinga were united, but their parties were split (Kramon & Posner, 2011).

49  The same interviewee claimed that on referendum day some of the ballots were changed – the colours of the two options (green for "Yes" and red for "No") were switched to get people who were actually against the constitution to vote for it (Interview 33).

politicians, this meant that *"whether they liked it or not, it had to happen"* (Interview 27). The CoE was able to overcome several obstacles in the constitutional review process and, in the end, a constitution of high quality was endorsed by Kenyan voters. Thereby, a milestone in Kenya's political history was reached: *"The constitution is of historical significance to Kenya. It is comprehensive in scope and seeks to radically transform the state, public institutions and the practice of politics"* (Jepson, 2014, p. 161). It was mainly through their support for the CoE that donors were able to have a strong, positive impact on this critical juncture.

| Table 2: The adoption of a new constitution in 2010 | | | |
|---|---|---|---|
| **Main components of the critical juncture** | **Domestic factors** | **International contribution** | **Crucial international contribution** |
| New constitution written in nine months | • CoE overcame significant challenges<br>• Availability of previous drafts | | + Funding in support to the CoE |
| Politicians agree on a new constitution | • ODM gave into PNU's demands<br>• Politicians able to water down harshest provisions<br>• Politicians knew their voters wanted the constitution | | |
| Peaceful + free and fair referendum | • Good work of IIEC<br>• Local election observers | + Support to ELOG | |
| Constitution accepted by majority of voters | • "Yes" side (Kibaki and Odinga) stronger than "no" side (Churches, Ruto, landowners)<br>• People had been wanting new constitution for many years | | |
| Source: Author's compilation | | | |

A lot of hope rests on Kenya's new constitution – many believe that if the constitution holds, it can radically change the way Kenyan society and politics work, even if these changes might not be felt earlier than 20 years from now (Interviews 2, 11, 13, 29). Devolution in particular is seen as having the potential to transform the political system, as resources are more evenly distributed and new elites emerge from local-level politics (Interviews 2, 10, 11, 31). This, however, will critically hinge upon the full implementation of the new constitution.

Most interviewees felt that implementation was progressing too slowly (Interviews 1, 10 9, 24, 27, 28). In addition, a relatively strong push-back can currently be felt in Kenya. With regard to devolution in particular, politicians are clearly resistant to fully follow through with the envisioned reforms (Interviews 1, 10, 13). Several interviewees felt that politicians were never truly convinced of the reform steps taken in 2010 (Interviews 1, 18), or are only now realising what stark reforms the events of 2007/2008 made them agree to and are now trying to halt the changes this could lead to (Interviews 12, 16). Despite indications of attempts to frustrate the process, several interviewees were optimistic that the constitution will indeed hold (Interviews 11, 24, 25).

## 3.4     The elections in 2013

*We are a lot more tribal in our thinking and feeling a lot more dissatisfied and a lot angrier as a people. 2013 in an ideal scenario would have been an election that would have unified Kenyans and made people feel that yes we are all part of this country, but it did not do that. It fragmented society even more.* (Interview 26)

*We've had problematic elections in 2007 and in 2013. I'm not sure the country will withstand another.* (Interview 30)

Once again, completely new political alliances were formed for the presidential elections in 2013. The two main presidential candidates were Odinga – this time supported by the Coalition for Reform and Democracy – and Kenyatta from the Jubilee Alliance.[50] Uhuru Kenyatta has a long-standing history in Kenyan politics – he is the son of the first president of Kenya, Jomo Kenyatta, and was the Kenyan African National Union candidate that lost the 2002 elections to Kibaki. Kenyatta and his designated deputy, Ruto, both faced charges at the ICC for their involvement in the violence in 2007/2008, albeit for the two sides of the conflict, with Kenyatta formerly representing the PNU and Ruto the ODM (Cheeseman, Lynch, & Willis, 2014). Hence, former allies, Odinga and Ruto, were now going up against each other, whereas the former enemies, Kenyatta and Ruto, chose to work together.

As in 2007 the results were very close. Although Kenyatta indisputably received more votes than Odinga, what came as a surprise to many was that a run-off round between the two major opponents was not necessary. Kenyatta had passed the constitutional threshold of 50 per cent +1 vote by a slim margin of 8,000 votes. It was this final result that remained highly disputed, largely due to the elections being marked by serious organisational flaws – e.g., most of the voting technology employed failed on election day. Odinga appealed against the results at the Supreme Court, but the court unanimously decided against the appeal. The situation stayed peaceful throughout and after the elections. However, many feel that although violence was avoided, the reasons for violence have in no way been overcome (Interviews 26, 29, 31; Elder, Stigant, & Claes, 2014).

Although the long-term impact of the 2013 elections cannot be assessed yet, several negative short-term developments are apparent. First of all, the close race and mistrust in the accuracy of the final results of the presidential election have led to stronger divisions in society (Interviews 4, 8, 29, 33, 36; Elder et al., 2014). Despite peaceful elections, the threat of a negative long-term impact remains: *"Maybe for the stability of the country on the short term, this might look to be okay, but I believe that under the surface these elections have left the country divided completely"* (Interview 4).

Also highly problematic is that people have once again lost trust in two vital institutions – the electoral commission and the judiciary. The Independent Electoral and Boundaries Commission (IEBC) has lost public support due to its inability to guarantee a smooth election process (Interviews 17, 20, 25, 35; Cheeseman et al., 2014). And the impartiality of the judiciary is once again being questioned due to the disputed verdict on the elections (Interviews 4, 18, 20, 29).

Furthermore, the elections have had a negative impact on democracy in the short term (Cheeseman et al., 2014). In order to prevent a renewed outbreak of violence, an overriding

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50   The Jubilee Alliance coalition comprises four parties: the National Alliance, the National Rainbow Coalition, the United Republican Party and the Republican Congress.

"peace narrative" evolved prior to the elections, which included a general focus on as well as public stressing of the priority of keeping peace during the elections. This led to democratic deficits being accepted for the sake of stability. Following the positive momentum from constitutional reform in 2010, the elections in 2013 would have ideally been another step forward in Kenya's democratic transition, but this was not the case (Interviews 15, 33). Instead, resignation started to spread: *"Of course you don't see a perfect functioning of democracy here. You don't and you're not going to see that any time soon"* (Interview 4).

*Doubts about the fairness of the elections*

Many interviewees – and large parts of the Kenyan population[51] – do not believe that the elections were truly free and fair, mostly due to there being too many irregularities (Interviews 9, 10, 11, 26, 30, 36; Cheeseman et al., 2014; Elder et al., 2014). Most importantly, although all interviewees believed that The National Alliance (TNA) and Kenyatta had garnered more votes than the opposition, many of them – nationals and internationals – strongly doubted that Kenyatta did indeed pass the 50 per cent +1 threshold in the first round (Interviews 3, 10, 15, 22, 24, 30, 36).

In the elections of 2013, several types of electronic devices were deployed in order to increase their transparency and, hence, raise confidence in the process. By reducing human input and increasing technical impact, a higher credibility of the elections was to be ensured: *"They were convinced that the best way for them to clear any doubt and seize any suspicion from the people around the performance of the IEBC was to do everything electronically"* (Interview 17). More than US$ 120 million was invested to use Biometric Voter Registration, Electronic Voter Identification Devices and electronic transmission software (for details, see Barkan, 2013).

Technically, the elections were a fiasco (Interviews 2, 6, 11, 17). The Electronic Voter Identification kits failed in 55 per cent of polling stations, and voter identification instead had to proceed manually. However, the voting processes, e.g. the opening of the stations and the balloting process, were orderly and seen as being credible (Interviews 2, 17, 29, 35). At this stage the IEBC was able to overcome the technical problems. However, the difficulties continued with regard to the tallying of the votes. The mobile phone transmission systems, which were supposed to provide a first tallying of votes with which later results could be compared, often had no connection or were simply not charged, thereby defeating their purpose (Cheeseman et al., 2014). The screen on which the tallying of the votes was displayed froze for 24 hours, and the situation grew increasingly tense (Interview 17). Again, part of the tallying then had to occur manually; however, this proceeded in a very intransparent manner: observers were banned from the process (Interviews 30, 35; Cheeseman et al., 2014). It is the tallying of the results that most interviewees were highly suspicious of (Interviews 2, 4, 6, 24, 27, 30).

Besides the transmission system breaking down, oft-cited indications of fraud include: considerably more people voted in the presidential elections than in the other five polls that took place on the same day; the high turnout rates of 100 per cent in some polling stations; and the fact that the TNA and IEBC servers had the same host (Interviews 3, 10, 22, 30). The institution that suffered the most in terms of credibility because of the many

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51 In May 2013 only 56.1 per cent of the population believed the election had been free and fair (Cheeseman et al., 2014).

technical problems in the 2013 elections was the electoral commission – the IEBC. Already in the run-up to the 2013 elections, the IEBC was having considerable difficulties in procuring all the necessary materials and technologies (Interviews 15, 17, 22, 27; Barkan, 2013). Most importantly, as laid out above, most of the technology employed by the IEBC ultimately failed to work on election day.

The interesting question is, of course: Was the IEBC simply lacking the capacities to organise an election, or were these irregularities deliberate? Interviewees were torn. Some argued that the IEBC was simply overwhelmed: it had to organise six elections on one day, it was created too late (22 months before the elections) and clarifying boundaries of electoral districts was an additional burden that delayed many processes (Interviews 2, 33, 17). Other interviewees were more sceptical. The IIEC had managed to conduct a fair and well-organised referendum in 2010. The IEBC had retained the same chair and three of the commissioners. Furthermore, all new commissioners had gone through a public interview and vetting process – capacity-wise it should have been equipped better, or at least as well as the IIEC (Interviews 15, 29, 35; see also Barkan, 2013). Instead, the chaotic procurement process, the unpreparedness regarding the technologies that were used and the intransparencies during the tallying of votes led some to believe that the mistakes were deliberate (Interviews 15, 30). As one interviewee put it: *"There is no shortage* [of capacities]. *What we have a shortage of is the will to actually conduct free and fair elections"* (Interview 30). The question of whether the elections were deliberately mismanaged or not cannot be definitively answered here. However, the British anti-corruption agency recently uncovered clear corruption activity with regard to printing materials for the 2013 elections, which again sheds a strong negative light on the IEBC (Haefliger, 2014).

Donors invested massively in the IEBC to support their efforts to conduct free and fair elections in 2013. Funding and technical support were mainly provided through the UNDP project Support to Electoral Reforms and Processes in Kenya,[52] but also INGOs such as the International Foundation for Electoral Systems (IFES) and the Electoral Institute for Sustainable Democracy in Africa worked directly with the electoral commission. The question therefore arises as to why the IEBC failed to organise a smooth election process despite receiving major donor support. Already before the elections there were strong indications that the IEBC was struggling (Interviews 4, 35). But donors remained committed and even tried to save the IEBC when necessary. For example, when the procurement process for technology equipment was threatening to collapse, the government of Canada stepped in to help (Interview 4). Similarly, some donors had had doubts about employing voting technology; however, they instead followed the mood in the country and supported this step (Interview 17; Barkan, 2013). Although the IEBC's preparations were obviously not going well, donors were willing to look the other way, hoping the IEBC would not fail: *"you could see it especially in people who had put money in it, they were basically running around scared for it to succeed, because if it failed, they would fail together"* (Interview 33). It seems that coming out of post-electoral violence in 2007/2008, donors wanted to make sure these elections fared better and invested large amounts of money to this end. The IEBC used this funding to have materials printed and to buy technology that, however, failed to work. What the IEBC was less interested in was the technical cooperation and capacity-building that was originally worked into the

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52  Supported by the European Union and the embassies of the Netherlands, Norway, Finland, Denmark and Italy as well as the Department for International Development and the United States Agency for International Development (USAID).

programmes (Support to Electoral Reform and Processes in Kenya, 2013). With more technical support and capacity-building, some of the problems regarding the technology might have been avoided. It was not possible to find out why the IEBC did not make use of the technical components of the programme and why donors were not able to insist that they do so. Some believe that development partners were deliberately kept out of certain issues (Interview 18). Today, donors themselves are highly critical of their support to the IEBC, questioning whether they should continue development cooperation with this institution (Interviews 4, 5, 20, 26).

Another important part of international engagement in the elections was election observation. Although it is understandable that observation missions have to be careful about stating that an election was not free and fair, the EU commission's report is surprisingly positive (Interviews 4, 22; Elder et al., 2014). The report does not highlight what massive problems the IEBC faced nor how strongly disputed the final results were. Similarly, the local observers, who were also supported by donors,[53] have been criticised for not openly sharing their results (Interviews 22, 30). A potential remedy to reduce the uncertainty around the results could have been the results of the Parallel Voting Tabulation of domestic elections observation (ELOG).[54] But ELOG's projection for Kenyatta was actually below 50 per cent – namely 49.6. Given their margin of error of 1.2 per cent, it is not possible to say from their numbers whether Kenyatta indeed passed the 50 per cent threshold or not – either below or above 50 per cent would have been within the predicted results (Interview 32). Instead of acting as a stabilising factor, the fact that their projection for Kenyatta was below 50 per cent – and that this was not openly discussed by ELOG – raised further suspicions with regard to the accuracy of the final results (Interview 30). It is possible that ELOG was reluctant to discuss its controversial projection out of fear that this could destabilise the situation. When asked why ELOG was not more critical with regard to the final results, a representative stated: *"Do you want to burn a country because of eight thousand votes, when you know who the popular vote is?"* (Interview 33). It seems that both local and international observers held back out of fear of destabilising the situation. Thereby, problematic elections were legitimised, which risks undermining efforts to improve elections in Kenya in the future (Elder et al., 2014).

Besides support to the IEBC and election observers, a lot of donor support went into civic education, mainly through the local NGO Uraia. Other local NGOs received grants to support political parties, gender issues or human rights monitoring of the elections. These programmes were judged neither positively nor negatively by interviewees. With regard to civic education, many felt that preparations started very late. This is not to say that support to local NGOs is not important. In this critical juncture, it just did not have a crucial impact on the process.

*The controversial ruling of the Supreme Court*

Three presidential petitions were handed in that challenged the election: one by Odinga disputing the results of the elections; one by a local NGO, AfriCOG, disputing the electoral process; and another one by several individuals disputing how the presidential threshold had

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53  For example the Danish International Development Agency, Finland and the EU.
54  In fact, ELOG had also been created because of the post-electoral violence – in 2007 domestic observers were not able to speak on behalf of the quality of the disputed elections, so a national platform of local observers was specifically created to this end (Interview 29).

been counted.[55] Despite the many indications of irregularities, the Supreme Court unanimously decided that the elections had been free and fair, and that Kenyatta and Ruto were the rightful winners. Most interviewees strongly disagreed with the ruling or the weak defence of the debatable decision (Interviews 3, 4, 14, 15, 17, 18, 26, 31, 36).[56] Most importantly, the verdict significantly decreased people's trust in the judiciary (Interviews 4, 18, 20, 29). The unanimous ruling of the Supreme Court in favour of Kenyatta has been interpreted as being overly focussed on maintaining stability, potentially undermining the court's legitimacy.

Many credited Odinga's move to accept the controversial ruling of the Supreme Court (Interviews 11, 12, 14, 36).[57] However, they also stress that whether Odinga truly accepted the ruling or not, he simply had to do so, because he could not risk being seen as instigating instability – the pressure for peace and accepting democratic flaws for its sake was simply too strong in 2013 (Interviews 3, 7, 26; Cheeseman et al., 2014).

Although donors have been supporting the rule of law and rightfully continue to do so, no interviewee stressed that there was a connection between the increased legitimacy of the judiciary and donor programmes. Influence on – or a specific reaction to – the court's decision by the international community could not be traced. On this particular component of the critical juncture, the international community did not have an important impact.

*The peacefulness of the elections*

It is difficult to clearly judge whether the peacefulness of the elections should be considered a success or not. On the one hand, following the 2007/2008 period – in which elections led to large-scale violence leaving more than 1,000 dead – praising the 2013 elections for remaining peaceful is understandable. If the alternative scenario meant large-scale violence, then the fact that they remained peaceful is a major achievement. However, this counterfactual of large-scale violence in 2013 does not seem very prominent among analysts, who instead argue that the elections were only superficially peaceful.

Despite the many shortcomings in the elections of 2013, they have been credited by some for at least remaining peaceful (Interviews 4, 12, 26). Several factors explain why the elections in 2013 remained peaceful (see also Cheeseman et al., 2014; Elder et al., 2014; Long et al., 2013).

First of all, important institutional reforms had taken place since the elections in 2007. The new IEBC, which had proven itself in the 2010 referendum, was to organise the elections (Interview 17; Barkan, 2013). Furthermore, the recommendations of the Waki commission had led to the revision of police reform and judicial vetting, as well as the appointment of the new Chief Justice. Thereby, people's trust in the two institutions that were considered to be most responsible for triggering the violence in 2007 – the electoral commission and

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55   Contrary to common standards, the presidential threshold of 50 per cent +1 was calculated only from the valid votes cast instead of all votes cast.

56   Only some interviewees defended the court to a certain degree on the basis that the time allocated to deliver the verdict was clearly too short (Interviews 4, 8, 17).

57   It is generally believed that Odinga could have, in fact, won the court case had he not claimed all of the elections were faulty and only made the challenge that Kenyatta had indeed passed the 50 per cent + 1 hurdle of the presidential election (Interviews 8, 11, 29).

the judiciary – was restored, at least in the short-term (Cheeseman et al., 2014). Thirdly, the new constitution of 2010 foresaw a devolved government. Many see the fact that the opposition actually won a majority of the governor posts as having been a stabilising factor (Interview 10).

A second factor that, according to many interviewees, contributed to the elections being peaceful was the ICC (Interviews 10, 11, 24, 26, 29, 32, 33). Because of the cases taken up against Kenyatta and Ruto, politicians knew that if they resorted to violence they could potentially be held accountable for it. Therefore, many see the ICC as having been a factor that deterred violence (Interviews 24, 29, 32, 33). Second, the ICC charges made the Jubilee alliance possible, whereby the two warring communities of 2007/2008 were united in one political alliance (Interviews 3, 11).

Third, in order to prevent a renewed outbreak of violence, the whole country engaged in efforts to maintain stability: monitoring and early-warning systems were set up, district peace committees were formed and journalists were trained on conflict-sensitive reporting. All these efforts were complemented by public figures stressing the importance of keeping peace (Cheeseman et al., 2014). This "peace narrative" strongly dominated the discourse prior to the elections (Interviews 10, 26, 29, 31, 32). Additionally, on the day of the elections, measures were taken to prevent another outbreak of violence, such as deploying police officers in "hot spots" where violence was most likely to erupt (Interview 3). Furthermore, after 2008 the NCIC was created and tasked with, among other things, monitoring hate speech. Although the NCIC never successfully convicted anyone, some cases were taken to court, and several interviewees believed these actions had a deterrent effect (Interviews 3, 4, 17, 30).[58]

Fourth, many interviewees stressed that the elections in 2007 were peaceful because Kenyans wanted to prevent a renewed outbreak of conflict by any means (Interviews 11, 15, 17, 29; Elder et al., 2014). Destroying lives, homes and livelihoods was not to happen again just because of elections (Interviews 11, 15, 17, 29).

However, several other interviewees were very sceptical as to whether the peacefulness of the elections can really be considered a success (Interviews 26, 29, 31). As one interviewee put it: *"I think the achievement is that we didn't have mass protests. I don't know if that's an achievement"* (Interview 26). Many doubt that the elections can actually be described as peaceful and instead describe the situation in 2013 as a "negative peace" (Interviews 26, 29, 31; Elder et al., 2014). According to this view, what Kenya witnessed in 2013 was simply a lot of pressure for stability through an overriding peace narrative, described by Nic Cheeseman et al. (2014) as the "tyranny of peace messaging" (see also Interviews 1, 27, 28, 31, 32). Because of the strong focus on keeping the elections peaceful, many feel that democratic principles were abandoned (Interviews 2, 15). For example, highly important issues, such as land rights, were not allowed to be discussed during the election campaigns due to their mobilising potential[59] (Interview 3; Cheeseman et al., 2014). Many were also critical about the process of party nominations or that party-hopping and excessive

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58  However, this did not completely eliminate hate speech in the elections. Many feel that grievances were instead unloaded on social media and that hate speech prevailed, simply moving to a less visible level of public discourse (Interviews 26, 29, 32; Elder et al., 2014).

59  This benefited Kenyatta, who is known for holding disputed plots of land but was effectively able to take this topic off of the agenda for the sake of peace (Interviews 3, 7, 22).

campaign financing occurred and was accepted (see e.g. Elder et al., 2014). They felt that had peace not been the most important issue in 2013, these violations would have been more strongly prosecuted or raised (Interviews 2, 15, 21, 24). People came to equate democracy with peace and thought elections were free and fair if they were peaceful (Cheeseman et al., 2014). This can clearly be seen in opinion polls done prior to the elections: 85 per cent of the respondents stated that it was more important to preserve peace than to have the correct winner be announced (Long et al., 2013). Many feel that violence was avoided, but the reasons for violence have in no way been overcome, which can endanger peace in the future (Interviews 26, 29, 31; Elder et al., 2014). What is more, despite remaining peaceful, the problematic conduct of the elections in 2013 is seen to have left the country polarised, potentially increasing the risk for conflict in the future (Elder et al., 2014).

Donors played an important role in ensuring that the elections remained peaceful.[60] Several donor projects, e.g. the UNDP basket fund on Conflict and Security, aimed specifically at ensuring peace during the election. Early warning and monitoring mechanisms were introduced; the police and journalists were trained; and governmental and non-governmental structures, such as AfriCOG and NCIC, were supported. However, in their support to the elections, donors also followed the mood in the country and focussed very clearly on advocating peace, thereby contributing to the "tyranny of peace messaging" (Interviews 2, 4, 6, 8, 9, 11, 22, 28).

*The victory of the Jubilee Alliance*

The two candidates who won the presidential race, Uhuru Kenyatta and his vice-president William Ruto, both faced trials at the ICC for crimes against humanity. What explains their victory in the 2013 elections? First of all, the coalition combined a Kikuyu and a Kalenjin leader, which ensured a certain amount of support, since voting in Kenya is still strongly oriented along ethnic lines[61] (Interview 7). Also, the opposition was seen as being weak and disorganised (Interviews 22, 23, 26). Most importantly, the Jubilee Alliance was highly successful at mobilising their voters to register for the elections (Interviews 7, 10, 20, 33).[62]

What drew the most criticism concerning the international community's engagement with regard to the elections in 2013 was the diplomatic pressure issued against the two ICC inductees, Kenyatta and Ruto (Interviews 3, 4, 15, 18, 26, 35). In a press statement prior to the elections, US Assistant Secretary of State Johnnie Carson stated that *"choices have consequences"*. This was interpreted as being a clear statement against the Jubilee Alliance. Shortly afterwards, diplomatic missions in Kenya made it clear that a victory of the Jubilee Alliance would reduce diplomatic involvement to "essential contact only" due to their pending court cases at the ICC (Brown & Raddatz, 2014; Mueller, 2014). Aided by a British PR firm, the Jubilee Alliance made a deliberate campaign strategy out of these

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60 Beyond donors praising their own programmes, no consensus among the interviewees was identifiable. Praised interventions include: the stabilising effect of donors supporting ELOG (Interviews 17, 35), the IEBC (Interviews 2, 32, 36), NCIC (Interviews 17, 18, 32), and SMS platforms against violence (Interviews 6, 32).

61 The Kikuyu, the largest ethnic group in Kenya, constitute about 20 per cent and the Kalenjin 11 per cent of the population.

62 This mobilisation argument is important in the Kenyan context. Even though the different ethnic groups are never larger than 15–20 per cent of the population, a group can increase its leverage through high mobilisation and turnout. For example, the Kikuyu in the central province actually only constitute 18 per cent of eligible voters. In 2013, this increased to around 25 per cent simply through registration (Interviews 4, 22).

statements and combined them with their charges in front of the ICC to claim there was a Western conspiracy against them (Interviews 4, 7, 8, 10, 15; Brown & Raddatz, 2014; Cheeseman et al., 2014; Mueller, 2014). Some argue that well-intentioned statements were simply abused by the Jubilee Alliance (Interviews 6, 10, 36). Many respondents were nevertheless very critical about the international community's behaviour (Interviews 3, 4, 18, 26, 35). They felt that, through these statements, international actors – mostly the diplomatic circles – took a clear stance regarding their preferred outcome of the election, namely by favouring the opposition (Interviews 3, 4, 15). Although the international community's statements alone cannot explain the victory of the Jubilee Alliance, many felt it did contribute to their effective mobilisation of voters (Interviews 7, 8, 10, 15). Brown and Raddatz (2014, p. 50) comment: *"At the last minute, with the worst possible timing, they made high-profile public pronouncements that, if anything, proved counterproductive."*

Those supporting the international community's approach see an even bigger problem: despite their clear positioning prior to the elections, little to nothing of the threatened "consequences" can now be felt (Interviews 4, 18, 26; Brown & Raddatz, 2014). The Essential Contact Policy is now in place for European diplomats.[63] However, others do not follow this policy – UNDP's last development framework was launched from the president's statehouse (Interview 6). To the Kenyan public, it therefore looks very much like business as usual: *"I think the unfortunate thing is the inconsistencies after the elections. You can't say that we will cut down to essential contact and then you do a three sixty degree turn. So where are these consequences that we were told about? We are not seeing them now"* (Interview 26). It seems that diplomatic actors are now more afraid to speak openly about critical issues – leaving the impression that they were first too active and now too passive (Interviews 3, 10). The debate on "choices have consequences" has had another negative effect: the international community is seen as being partisan. Both development cooperation in general and support to civil society in particular have come under strong criticism; in fact, a law on capping foreign NGO funding at 15 per cent was discussed in parliament in 2013. Because of the "choices have consequences" debacle, relations between the international community and Kenyan authorities are currently strained, making it difficult to provide effective support to peace and democracy in Kenya in the future (Interviews 3, 8, 10, 30, 32).

*Conclusion*

Despite donors' massive support, the 2013 elections were marked by several serious flaws. Most importantly, donors supported the electoral commission that procured and used technology that, in the end, largely failed. Because of the fear of renewed instability, it seemed that many were willing to look the other way – a fact that is reflected in donors' missing reactions to the unpreparedness of the IEBC, but also in the uncritical observer mission's report. What also proved highly problematic was the positing of the diplomatic community during election campaigns, which was perceived as being partisan and in favour of the opposition.

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63   In practical terms, this means that the embassies will not invite the president or vice-president to events (Interview 20).

| Table 3: The elections in 2013 | | | |
|---|---|---|---|
| **Main components of the critical juncture** | **Domestic factors** | **International contribution** | **Crucial international contribution** |
| Doubts about the fairness of the elections | Possible indications of fraud: <br>• Technological problems and difficulties of the IEBC <br>• Intransparent tallying <br>• Turnout rates of 100% in some polling stations <br>• Higher turnout in presidential elections than the five other simultaneous elections <br>• TNA and IEBC servers had the same host | - Donors unable to prevent the IEBC from failing to organise smooth election process <br>- Neither local nor international elections observers able to convincingly clear doubts | |
| Controversial ruling of the Supreme Court | • Court's ruling expression of primary interest in stability | | |
| The peacefulness of the elections | • Institutional reforms taken beforehand: IEBC, judiciary, devolution <br>• ICC as deterring factor <br>• Peace narrative, conflict-reducing measures installed for the elections <br>• Kenyans by all means wanted to avoid violence | + Support to conflict-reducing measures <br><br>- Support to peace narrative | |
| Victory of Jubilee Alliance | • Combined Kikuyu and Kalenjin voters <br>• Opposition weak and disorganised <br>• Highly successful mobilisation of voters | - International diplomatic pressure fuelled their election campaign | |
| Source: Author's compilation | | | |

The 2013 elections have left behind a difficult legacy for peace and democracy in Kenya. The IEBC has lost public support due to its inability to guarantee a smooth execution of the elections. The impartiality of the judiciary is once again being questioned because of the disputed Supreme Court ruling. Furthermore, factors that contributed to the peacefulness of the 2013 elections are likely to change. The ICC's charges against Kenyatta have been dropped. In the next elections, new political alliances are sure to evolve, and Kikuyu and Kalenjin – the two warring parties of 2007 – may no longer stand together. In 2013 the trauma of the post-electoral violence in 2007/2008 was engraved in everyone's mind, and the whole country joined forces to prevent renewed chaos. But once 2007/2008 has moved more into the past, this will likely change.

## 3.5 Summary

The international community has had quite a considerable impact on the peace and democratisation process in Kenya since 2008. Several examples of strong positive or

negative impact of international engagement stand out. First, international mediation enabled a political solution to the disputed elections of 2007 and thereby prevented a further spread of violence. It was during this critical juncture that the international community was seen as being truly crucial and as having a strong, positive impact on the developments in the country. International influence on the other two junctures was not as strong, but nevertheless significant. With regard to the constitution, donors supported most of the institutions that played a role in the process. They worked with the IIEC, which carried out the referendum; the domestic observers, ELOG, which monitored the referendum; and also with the churches, which were actively positioning themselves on the "no" side. Most importantly, by stepping in and funding the work of the CoE, donors were able to have a strong, positive impact on this second critical juncture. In the third critical juncture, the elections of 2013, the international community did not have as strong of a positive impact as in the two previous junctures. Instead, the impact was mostly negative. Donors supported the strong peace narrative in the country and acted accordingly – e.g., international and local observers should have been more critical in light of the serious democratic flaws in the elections. Most importantly, donors did not prevent the failure of the electoral commission, despite major engagement. Instead of preventing Kenyatta and Ruto's victory, Western diplomatic pressure against them in the run-up to the elections was portrayed as a conspiracy and actually fuelled their electoral campaign.

# 4 Kyrgyzstan

## 4.1 The political process in Kyrgyzstan 2005–2014

In the first 15 years after independence from the Soviet Union, Kyrgyzstan was ruled by Askar Akaev. Akaev – initially praised for his liberal reforms and establishing an "island of democracy" in Central Asia – initiated the authoritarian slide of the country, starting in 1996. By 2000, through various constitutional changes, Akaev had built a system of competitive authoritarianism based on a strong patronage network that included family, businessmen and criminals (Collins, 2011). The 15 years of Akaev's rule abruptly ended with widespread protests, culminating in the Tulip Revolution of 2005.[64]

On 10 July 2005, Kurmanbek Bakiev, an opposition leader and interim president after the Tulip Revolution, won the presidential elections with almost 90 per cent of votes. The first years after the revolution were marked by instability and power struggles between Bakiev and other politicians.

> *The contestation phase culminated in November 2006 when Bakiev, under heavy pressure from opposition-minded members of parliament, was literally forced to sign a new version of Kyrgyzstan's constitution considerably limiting the president's powers. This was the first major event demonstrating Bakiev's weakness, unusual for a president in Central Asia, but it was also the last* (Juraev, 2010, p. 2).

Only one month later, Bakiev started to revoke the changes and, in 2007, was able to pass a new constitution via referendum, which once again strengthened the powers of the

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64  For explanations for the Tulip Revolution, mostly in a comparative perspective of the famous "colour or flower revolutions", see Beissinger (2007), Bunce and Wolchik (2010), Hale (2005), Radnitz (2006), Way (2008).

president (Borisov, 2010; ICG, 2008b). Prior to the parliamentary elections in 2007, Bakiev created his own party, Ak Jol ("White Path"), which went on to win 71 out of 90 parliamentary seats (ICG, 2008b). By 2009 at the latest, it became clear that the Tulip Revolution, initially hailed as a democratic transition, had in fact only replaced one authoritarian ruler with another (Boonstra, 2012; Borisov, 2010).

The April revolution in 2010 caught many by surprise. In hindsight several factors explain the mounting tensions and reasons for the legitimacy crises of Bakiev's regime. First, rampant corruption and nepotism spread while the general economic situation in the country was deteriorating. Second, Bakiev was showing increasingly authoritarian tendencies as the pool of rivals, which had been pushed out of the political arena, grew (Laumulin, 2010). An important trigger for the revolution is associated with the rise in taxes and electricity prices in late 2009 and early 2010 – the first protest occurred in February 2010 (Call, 2012; Mirsayitov, 2011). The general dissatisfaction with Bakiev was further fuelled by the Russian media, which started to broadly spread details on Bakiev's corrupt practices in March 2010 (Collins, 2011; Huskey & Hill, 2011).[65] Major protests first broke out in the local provinces of Talas and Naryn, and then spread to Bishkek on April 7. In the ensuing clashes around the white house, more than 80 people were shot and 1,651 wounded (Collins, 2011; Huskey & Hill, 2011).[66] Bakiev fled, first to Jalalabad in southern Kyrgyzstan, and then to Belarus (Nichol, 2013). Only five years after the Tulip Revolution, Kyrgyzstan had once again experienced a revolution with the forceful ousting of the president.

On April 8 an interim government, headed by Roza Otunbaeva, took control, dissolved the parliament and the constitutional court, abolished the old constitution and governed the country by decrees (Call, 2012). On 10 June 2010 interethnic violence between Uzbeks and Kyrgyz broke out in southern Kyrgyzstan. Although the background and causes of the violence remain highly debated and a matter of much speculation, a fight between two groups in a casino in Osh, the "southern capital", seems to have been the initial spark. This situation was further exacerbated by the slow response of the security forces, which were later accused of indirect or direct complicity in the violence (Kyrgyzstan Inquiry Commission [KIC], 2010). Several days of violent clashes left 470 dead, 2,000 injured, 300,000 internally displaced people and 2,800 properties damaged (KIC, 2010; Kaddik, 2010a; Matveeva, 2011a).

Only two weeks after the bloody clashes, a new constitution was put to a referendum, on 27 June 2010. The new constitution proposed a semi-parliamentarian system, which would significantly reduce the powers of the president.[67] While voting on the new constitution,

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65 This was seen as clear act of revenge. Bakiev had promised Russia to close the US airbase in Manas and received a loan of US$ 2 billion for hydropower and US$ 150 million of development aid in return (Huskey & Hill, 2011). Instead, Bakiev negotiated even higher rental terms for the US airbase and the Russian loans vanished. It is still under debate whether the Russian media's campaign caused the April revolution. Many interviewees believe it did. Others argue that it was a factor in increasing the protest but that it did not trigger them in the first place (e.g. ICG, 2010a).

66 In the ensuing 24 hours, as in 2005, large-scale looting broke out, once again *"calling into question the democratic nature of the revolution"* (Collins, 2011, p. 156). It is in no way clear and still being debated what the true motives behind the April revolution were.

67 Some of the many important new stipulation include: limiting the term of the president to a maximum of one six-year period, increasing the number of parliamentary seats to 120 and not allowing one party to hold more than 65 seats.

the population had to simultaneously vote for or against Otunbaeva as the official interim president until January 2012 and the dissolution of the constitutional court. The reforms were overwhelmingly endorsed – of the 70 per cent that had participated, 91 per cent voted "yes" (Kaddik, 2010a).

As promised by the interim government, in October 2010 parliamentary elections were held – 29 parties contested in what *"local and international observers have hailed as the freest, fairest, and most competitive* [elections] *Central Asia has ever seen"* (Collins, 2011, p. 150). Only five parties made it into the parliament. Surprisingly, Ata-Jurt, the anti-interim government party that – to a large extent – consisted of former pro-Bakiev forces, became the strongest party in the parliament, having received 8.89 per cent of the votes. Otunbaeva's Social Democratic Party of Kyrgyzstan (SDPK) only came in second, but the interim president accepted the results and spoke of a victory for democracy. The first coalition comprised Ata-Jurt, the SDPK and Respublika thereby representing both the old and the new political forces. The pro-Russian Ar-Namys and Ata-Meken (of the provisional government's first deputy, Omurbek Tekebaev) remained in the opposition. Since then three governing coalitions have broken down. Nevertheless, the parliament elected in 2010 has managed to survive, with the next parliamentary elections scheduled for 2015.

Another important step in the transition phase were the presidential elections held one year later, in October 2011. A race between 16 candidates was ultimately decided between Almazbek Atambaev (SDPK), Kamchybek Tashiev (Ata-Jurt) and Adakhan Madumarov (Butun Kyrgyzstan).[68] The two southern candidates, Tashiev and Madumarov, each received about 14 per cent of the votes, whereas Atambaev won a clear majority with 64 per cent of the votes. The presidential elections not only marked the first peaceful transfer of presidential power in the history of the country, but with this step the transition phase ended – Kyrgyzstan was now governed by an elected parliament and an elected president.

Kyrgyzstan has gone through important political developments since 2005, most notably the second revolution in 2010 and the adoption of a new constitution, whereby Kyrgyzstan is no longer a fully autocratic country. However, several challenges to the democratic transition remain: political parties are very weak, the independence of the judiciary is questionable and corruption persists (Chotaev, 2013; Engvall, 2011). The June 2010 events have also caused a dangerous increase in nationalism, and Uzbeks and other minorities are being strongly discriminated against. Ethnic reconciliation remains a major challenge for maintaining both stability and democracy in Kyrgyzstan in the next years. At the same time, the country is once again moving closer to Russia. Many fear the effect that joining the Eurasian Economic Union, which consists of highly authoritarian states such as Russia, Kazakhstan and Belarus, may have on the future of democracy in the country. Also, human rights abuses, anti-LGBT law as well as a "foreign agents" law call into question the democraticness of the Kyrgyz state.

When comparing the three dimensions of statehood, it becomes clear that Kyrgyzstan, like Kenya, has been struggling greatly with state legitimacy. Although the capacity of the Kyrgyz state is, of course, still wanting, its deficiencies in this regard are not as strong as in other countries. According to the World Bank classification, Kyrgyzstan constitutes a lower-middle-income country, and in the Human Development Index of 2012 it ranked 125th of 208. State authority has stabilised since 2010, when the country was on the verge

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68   The interim president, Roza Otunbaeva, promised to not run for the presidency when she was elected interim president in the constitutional referendum in 2010.

of collapsing. However, legitimacy – meaning citizens' trust in state institutions – has consistently been low. Clientelism and patronage prevent the proper development of state–society relations – in the 2012 Corruption Perceptions Index, Kyrgyzstan ranked 154th of 174. Ethnic relations are strained, and the economic inequalities between regions and classes are immense. Since the early 1990s, Kyrgyzstan has struggled with autocratic rulers and revolutions; currently, it is classified by Freedom House as being "partly free" – i.e., neither a fully democratic nor an autocratic regime.

Although donors are active in Kyrgyzstan, it has not received as much international attention as other countries. Similar to Kenya, Kyrgyzstan also does not constitute a highly aid-dependent country – the aid share to gross national income is currently around 7.8 per cent.[69] The five largest donors in 2012 were the Asian Development Bank, the Word Bank, the EU, the United States and Turkey. Sector-wise, the largest shares of aid go into social infrastructure, economic infrastructure and health.

Three critical junctures in 2010 were particularly important in shaping Kyrgyzstan's path of democratisation and stabilisation: the interethnic violence, the adoption of a new constitution and the parliamentary elections. All three critical junctures took place after the April revolution – they had a decisive impact in determining whether Kyrgyzstan would follow the democratic path it had chosen, and they affect democracy and stability in the country today.

## 4.2    Ending and overcoming the interethnic violence of June 2010

> *"Intercommunal relations have been spoiled for at least a generation, and there is currently neither the will nor the capacity to repair the damage."* (Radnitz, 2010, pp. 5–6)

Although it remains disputed exactly as to why violence broke out in southern Kyrgyzstan in June 2010, most analysts see the starting point in the power vacuum that ensued from the April revolution (see e.g. Galdini, 2014; ICG, 2010b; Melvin, 2011; Radnitz, 2010). The new government, mostly consisting of politicians representing the north, was struggling to take full control of the state. Their inability to provide security throughout the country became clear when, on May 13, former Bakiev supporters seized two administrative buildings in Jalalabad. It was only possible to regain control of these buildings with the help of two southern political leaders and their supporters, one of which was Kadyrzhan Batyrov (ICG, 2010b). Batyrov had been openly showing his support for the provisional government and, at the same time, was known for being very vocal in demanding more rights for the Uzbek community. In the same night, a mob allegedly led by Batyrov burnt houses belonging to the Bakiev family – however, this later turned out to be a rumour (KIC, 2010). In response, on May 19, Batyrov's "University of friendship" was attacked. A curfew was installed in Jalalabad from May 19 to June 1 (ICG, 2010b).

Many see these events in May as laying the ground for the outbreak of large-scale violence in Osh and Jalalabad in June, because they *"resonated beyond the immediate circumstances, inserting ethnicity into volatile local politics"* (Radnitz, 2010, p. 2) (see also Collins, 2011; KIC, 2010; Melvin, 2011). Through Batyrov's role in the May events, rumours spread that the Uzbeks were organising an uprising – although the Uzbeks have

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69    Data in this paragraph was retrieved from http://www.oecd.org/dac/stats

been better situated economically than many Kyrgyz, they remain politically marginalised (Human Rights Watch [HRW], 2010; Nichol, 2013).

In the evening of June 10, a fight between young ethnic Kyrgyz and Uzbeks in front of a casino in Osh escalated – both sides called for support from their communities, which quickly turned into large crowds clashing throughout the night (ICG, 2010b). An important factor exacerbating the violence was the false rumour that ethnic Uzbeks were beating, killing and raping ethnic Kyrgyz students in a dormitory (KIC, 2010; Melvin, 2011). Although both sides were initially involved in the fighting,[70] the violence later was mainly attacks on Uzbeks. A critical factor was that the military seemed to have directly or indirectly supported ethnic Kyrgyz groups (HRW, 2010; ICG, 2010b; Radnitz, 2010). Human Rights Watch (2010) reports that *"individuals in camouflage uniforms on armoured military vehicles entered the neighbourhoods first, removing the makeshift barricades that ethnic Uzbek residents had erected. They were followed by armed men who shot and chased away any remaining residents, and cleared the way for the looters"*. By June 14, violence started to decrease and eventually phased out, leaving 470 dead, 2,000 injured, 300,000 internally displaced and 2,800 properties damaged (Kaddik, 2010a; Matveeva, 2011a).

The violence in June had an immediate impact on further political developments in Kyrgyzstan in 2010. Although the instability could have endangered or derailed the democratisation process, the clashes instead led to a very high number of voters participating in and endorsing the new constitution in a referendum held two weeks later. However, in the longer run, the clashes have also led to a strong increase in nationalism and further discrimination of minorities, whereby social tensions are clearly increasing (Matveeva, 2011a). Building its new democracy on nationalistic sentiments as well as the exclusion and discrimination of minorities endangers Kyrgyzstan's democracy today: *"The malign legacy of June 2010 is eating away at the quality and legitimacy of Kyrgyzstan's new democracy"* (Collins, 2011, p. 162). Prosecutions for the violence mainly target ethnic Uzbeks; a reconciliation process is virtually absent; and political elites, both at the local and national levels, seem unwilling to tackle the subject. This all contributes to the highly fragile situation in the south – most interviewees were convinced that violence could break out again at any time (Interviews 44, 47, 49, 54, 61).[71] Kyrgyzstan's inability to address and deal with the root causes of the violence is clearly endangering the stability of the country.

*Ending violence*

The interim government quickly realised that it was overwhelmed by the violent clashes, largely because the security forces were not under its full control, and asked for external assistance (Matveeva, 2011b). On June 12, the provisional government informally called on Russia for help. However, Russia referred to the violence as an internal matter and instead only provided humanitarian assistance (Matveeva, 2011b).[72] Similarly, Uzbekistan quickly declared that the conflict was an internal matter.[73] A possible intervention was

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70  Which included various atrocities such as killings, rape and mutilations.
71  The situation nevertheless seems more stable than in 2010 (Interviews 46, 48, 65).
72  For factors explaining why Russia was not willing to intervene, see Matveeva (2011b).
73  Actually, Uzbekistan even closed its border at first. Refugee camps were set up later, but these were closed again very quickly and refugees were forcefully moved back to Kyrgyzstan (Melvin, 2011). This was because of the fear that the refugees would bring democratic ideas into Uzbekistan, endangering Karimov's strictly authoritarian regime.

never fully discussed in any regional or international organisations, such as the Collective Security Treaty Organization or the UN (Matveeva, 2011b).

The only form of international intervention that was planned was an unarmed police advisory force of the Organization for Security and Co-operation in Europe (OSCE). However, this idea was met with considerable resistance from Kyrgyz politicians in the south (Call, 2012; Melvin, 2011). The argument behind this objection was that the most recent OSCE police force had been sent to Kosovo – a conflict that ended with secession. The opponents raised the fear that the same would happen in Kyrgyzstan (Interview 61). Instead, a watered-down "community security initiative"[74] with international police advisors was installed several months later.

The international community's inaction when faced with the violence in Kyrgyzstan has drawn considerable criticism from international academics (see Call, 2012; Matveeva, 2011b; Melvin, 2011). Matveeva (2011b, p. 5) writes: *"Kyrgyzstan is a case of international neglect and unwillingness to shoulder responsibility for crisis management."* Call (2012, p. 28) concludes:

> *The absence of a significant response from the UN Security Council to the violence of June 2010, despite pleas from senior UN officials in New York and on the ground, may have undercut the idea that the organization can reliably help to stop or prevent mass atrocities.*

Interestingly, this opinion was not mirrored in the interviews. Some indeed criticised international organisations, but criticism of Russia in particular for failing to intervene was even stronger (Interviews 47, 51, 65, 70).[75] However, most respondents were glad that no intervention had taken place, due to fears that this could have further intensified the conflict (Interviews 47, 49, 50, 61, 62, 76). One of the attempts to do so – namely the OSCE police advisory mission – failed not because of international inaction but because of internal resistance. This seriously calls into question whether international troops would have been accepted at all (Interview 62). Another argument against international intervention is that the main fighting took place for only four days (Interviews 49, 51, 61). It seems difficult to criticise international actors for not intervening – the violence ended quickly, more quickly than what would have been necessary to prepare peace-keeping troops. However, it is both surprising and worrisome that no real discussions were held on whether or how to organise an international response to the violence (Interviews 55, 61, 64; Matveeva, 2011b). Had the violence persisted or spread, the international community would not have been prepared to end it.

If international actors did not play a role in ending the violence and the government was incapable of doing so, what explains the violence ending after "only" four days?[76] Further research is needed to truly answer this question. Several factors that may have contributed to the rather swift ending of the violence include a) the fact that the grievances between Uzbeks and Kyrgyz are not as strong as the outbreak suggested (Interviews 50, 61, 76), b)

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74  Supported by: the EU, the United States, the United Kingdom, Switzerland and Germany.

75  During the field research, the Russian media reported that Russia wanted to intervene but was asked by China not to do so (Interviews 50, 53). It is possible that Russia is trying to counter the negative image that its inaction in 2010 created in Kyrgyzstan.

76  It must be noted again that this is not downplaying the severity and cruelty of the violence. Four days were enough to kill hundreds of people, injure thousands and spoil ethnic relations for at least a generation. However, other conflicts are drawn out more – as was the case with the several weeks of violence in Kenya.

the absence of a political motivation behind the violence (Interview 62), c) rumours spreading about military interventions by Uzbekistan and Russia (Interview 61; KIC, 2010; Matveeva, 2011b) and d) peace initiatives, such as elders repeatedly trying to calm the masses, or helicopters distributing peace messages (KIC, 2010).[77]

*Swift reconstruction*

During the violence, more than 2,800 properties were damaged. Reconstruction, mainly undertaken by the Asian Development Bank and United Nations High Commissioner for Refugees, was most often named as having been a strong positive contribution by the international community after the violence (Interviews 51, 52, 61, 62, 65, 67). An over-whelming majority of interviewees noted that reconstruction was funded and organised quickly and effectively, making it possible that *"all people went to winter with a roof over their heads"* (Interview 52). Most importantly, the international community pursued a conflict-sensitive approach with regard to reconstruction. A large problem in the aftermath of the violence was the issue of how and where the destroyed buildings would be reconstructed. Most prominently, the major of Osh, Melis Myrzakmatov, wanted to resettle many of the centrally located Uzbek houses and mahallas to multi-storey houses on the outskirts of the city (Melvin, 2011). Many saw these propositions as a way of removing Uzbeks from the city centre and further marginalising them. In the end, Myrzakmatov was not able to succeed in redeveloping Osh according to his wishes (Interviews 49, 55). Donors very clearly signalled that this was an option that they would not be willing to support, instead insisting that everyone has the right to choose where he or she wants to live (Interview 55, 56, 64, 76). Melvin (2011, p. 34) claims that it was the donors who convinced Myrzakmatov: *"Facing growing international concern about the proposals to use international aid to redevelop Osh, Myrzakmatov eventually softened his position and a rebuilding effort to house the victims of the violence in the area of their former residences was initiated."* The claim that redevelopment in Osh proceeded as it did largely thanks to donors could not be corroborated in the field research.[78] Nevertheless, donors clearly signalled that they would not be willing to support Myrzakmatov's plans to solely build multi-storey houses and thereby probably contributed to making a conflict-sensitive reconstruction of Osh politically possible.

Although reconstruction is today regarded as having been highly successful, at the time it caused protests. Donors were confronted with the criticism that their help was focussed first of all only on the south, and second only on the ethnic Uzbeks, thereby neglecting other parts and people of the country (Interviews 52, 55, 69). As one interviewee put it: *"Some Kyrgyz became jealous. They were saying: Why do we still live in old conditions, do you want us to destroy our houses?"* (Interview 52). The fact is that ethnic Uzbek properties were disproportionately affected – during the violence, they had been concretely targeted with painted signs indicating whether houses belonged to Uzbeks, Kyrgyz or Russians (HRW, 2010; ICG, 2010b). However, at the time – and still today – many did not believe that the Uzbeks were the primary victims. Some felt that better outreach strategies accompanying the reconstruction – in order to explain to people that the international community was helping those who were most affected, regardless of their

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77  Ironically, although nobody intervened to end the violence, the mere belief that Uzbekistan or Russia would do so may have had an effect to this end.

78  This is because it seems as if some donor funds indeed went towards the building of the multi-storey houses (Interviews 55, 56).

ethnicity – could have helped in avoiding another increase in animosities after the violence (Interviews 55, 69). The protests became so strong that the local authorities discussed whether to allocate land plots to these groups of dissatisfied ethnic Kyrgyz. The international community declined to support such plans – the property rights to the land that was supposed to be given to the protesters were unresolved, whereby this step could have increased the risk of new conflicts (Interview 55).

Several problems arose after the successful reconstruction of large parts of Osh and Jalalabad. After reconstruction, a redevelopment plan for the city of Osh, the Osh "master plan", surfaced, whereby several of the reconstructed houses in the city centre were declared illegal and subsequently torn down (Interview 55).[79] Once again, *"victims of this process and evictions were Uzbeks"* (Interview 56). However, since they neither trusted the police nor the judiciary, no legal steps were taken against these evictions (Interview 65). In their reactions, donors seemed a little helpless – a seminar was organised to raise awareness on ensuring human rights in city redevelopment, but no further steps were taken (Interview 56). The allocation of apartments within the multi-storey houses that were built remains questionable – the apartments are mainly inhabited by Kyrgyz, and rumours exist that allegedly high bribes were paid for them (Interviews 48, 55). Additionally, the State Department on Reconstruction and Development, the national institution tasked with reconstruction, is now facing corruption charges (Interviews 48, 52). Despite these problems after reconstruction, the international community reacted quickly and was well-coordinated and conflict-sensitive, thereby taking care of the immediate needs of the population in the south.

*The root causes of the violence remain disputed*

One major problem with regard to the violence in 2010 is that there is no joint account of the events. In Kyrgyzstan it remains highly disputed as to what or who caused the violence. Although some interviewees did not see this as a problem, most agreed that the lack of such a joint narrative poses a major obstacle to the reconciliation process (Interviews 51, 55, 69). At least five commissions have investigated the violence, among them four national and one international one, which at times have come to very different conclusions (Melvin, 2011). The crucial importance of this weakness is that, depending on where the causes of violence are rooted, different steps would be recommended to prevent another outbreak of violence.

Many in Kyrgyzstan believe that the violence was in fact an upheaval of the Uzbeks, who wanted to secede, and that the Kyrgyz rightfully defended the unity of their country (ICG, 2010b). Several official accounts of the events instead blame "third forces" for instigating the violence. The State National Security Service attributed the violence to the involvement of three groups – the Bakiev family, Uzbek organisations and terrorists (ICG, 2010b). Similarly, the National Commission of Investigation into the June events came to the conclusion that Bakiev conspired with Islamists, to whom he paid large sums of money to organise instability in the south (Melvin, 2011). However, most analysts dismiss this view, and the international commission found no signs of involvement of the Bakiev clan (ICG, 2010b; KIC, 2010; Melvin, 2011). Another theory that was encountered during the field research was that the interim government itself instigated the violence in order to lay the blame upon Bakiev and thereby decrease his support base in the south (Interviews 62, 71).

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79 Actually, rumours exist that during the violence, these houses were systematically targeted according to the Osh Master Plan; however, they have not yet been proven to be true (Interviews 48, 55).

Yet others refer to Russia wanting to destabilise Kyrgyzstan as well as mysterious "outside forces" that instigated the violence (Interviews 71, 76).[80] It seems that the many reports available provide sources to cite whatever seems politically most convenient as being the true root causes of the violence.

Upon the personal request of the interim president, Otunbaeva, an international inquiry commission was invited to Kyrgyzstan to investigate the causes of the violence.[81] The commission was chaired by Dr Kimmo Kiljunen, a Finnish parliamentarian and Special Representative for Central Asia of the OSCE Parliamentary Assembly, and included an additional seven international experts (Matveeva, 2011a). It is the most detailed account of the events, relying on existing material (including documents and videos) and more than 750 interviews. The Kyrgyzstan Inquiry Commission (KIC) comes to very similar conclusions as other international reports (e.g. Human Rights Watch and International Crisis Group). It lays out the structural differences between ethnic Uzbeks and Kyrgyz, blames the security forces of complicity and clearly portrays the violence mainly as acts of Kyrgyz against Uzbeks (KIC, 2010).

Although it was internationally well-received, the local reaction was the opposite: the government agreed to some points but rejected that crimes against humanity were committed; it said the report was biased and sided too strongly with the victims. The most vehement opposition to the report came from the parliament, which declared the chair, Dr Kiljunen, *persona non grata*, denying him the right to visit Kyrgyzstan (Matveeva, 2011a).

Most interviewees spoke highly of the quality of the KIC report but also believed the report was biased towards the Uzbeks to a certain degree (Interviews 57, 50, 70, 76). Specifically, the recommendation to change the official name of the country from "Kyrgyz Republic" to the more inclusive "Kyrgyzstan" bewildered many respondents and was felt to be overreaching (Interviews 61, 70).[82] In hindsight, it seems that the report was *"a little bit too harsh and a little bit too truthful"* and *"just dumped in the laps of the Kyrgyz parliament"* (Interview 49). Although it is commendable that the international community tried to shed full light on the events, the uncompromising content and presentation of the report prevented it from having any positive impact (Interviews 51, 55, 61, 70). Furthermore, donors are being criticised for their *"strange acceptance of the persona non grata decision"* (Interview 56) and not pushing for the implementation of the report's recommendations (Interview 55). Apparently, several international actors had promised the commission that they would take it upon themselves to press for the recommendations to be implemented. Because the report drew such negative reactions, donors were then afraid to do so, fearing they would erode the working relationship with the government and further destabilise the country (Interviews 55, 57, 61).

A potential remedy for these problems could have been to establish a joint commission rather than a purely international one. Most likely, this would have meant that the findings would have had to be watered down. However, including national voices could have

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80 All of these theories were presented to me during my field research. NGO leaders, local employees of international organisations, academics and journalists all equally subscribe to some of these theories (Interviews 50, 64, 76).

81 The KIC was supported by several Western governments and donors: the EU, the United States, Finland, Norway, Germany, Switzerland, Sweden, Denmark, Turkey, Estonia and France (KIC, 2010).

82 Megoran (2012, p. 27) refers to the recommendation as *"condescending and arrogant"*.

enabled national ownership for the report, and hence increased the chances of producing recommendations that could have been implemented. It was not possible to find clear proof of whether this option was ever discussed. According to individual opinions, it was, but either the international community (Matveeva, 2011b) or the president insisted on it being purely international (Interview 57). Whatever the reason why it was not possible to establish a joint commission of inquiry, an important opportunity was missed – combining national and international experts would have very likely increased the possibility of having an accepted account of the events and recommendations that would have been followed up upon (Interview 57; Matveeva, 2011b).

*Stagnating ethnic reconciliation*

Reconciliation is tremendously hindered not only by not coming to terms with the causes of the violence, but also because of the persistent discrimination of minorities (the Uzbeks in particular) and the government's general inactiveness regarding improving interethnic relations.

In June 2010 the Kyrgyz authorities started criminal investigations into the violence. A major problem of the current process of "justice for the past" is that cases have been mostly brought forward against Uzbeks, despite there being more victims on the Uzbek side (Interviews 47, 50, 65). In December 2010 nearly 80 per cent of the criminal charges for participating in the violence were against Uzbeks (KIC, 2010).[83] A prominent example in this regard is the Uzbek human rights activist Azimjan Askarov, who has been sentenced to life in prison – despite a lack of evidence – for killing an ethnic Kyrgyz policeman (Interview 47). The result of this ensuing discrimination is that the Uzbeks are becoming increasingly alienated from the Kyrgyz state; their trust in official state organs – in particular the judiciary and the police – is practically nonexistent (Interviews 54, 70).[84] Many ethnic Uzbeks have left the country, and previously mixed neighbourhoods are becoming more mono-ethnic (Interviews 49, 61, 62).

Politicians at the national level seem highly unwilling to talk about the past and how to reconcile the two groups, preferring instead to sweep the issue under the carpet (Interviews 42, 44, 46, 57, 65, 74). Many see better minority rights as a necessary step for reconciliation. But the problem of a lack of Uzbek representation in political and administrative positions – one of the root causes of the conflict – is not being addressed (Interviews 47, 49). Making matters worse, rather than stressing and promoting commonalities, many politicians are trying to gain popular support by appealing to nationalist sentiments (Interview 74). Small positive signs nevertheless exist – e.g., a concept on interethnic relations was published in May 2013, and the president mentioned ethnic reconciliation as being one of the priorities in his speech on Independence Day (Interviews 47, 57, 61). However, many feel that Uzbeks are being treated worse than before and that ethnic relations are further deteriorating (Interviews 48, 74). This is the reason that many fear violence will break out again.

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83 One reason for this is the ethnically highly biased judicial system – Kyrgyz judges not only approve more cases against Uzbeks, but the sentencing received by Uzbeks is also considerably harsher than that of Kyrgyz perpetrators (Interviews 50, 62, 64).

84 Actually, appeals against discrimination are decreasing. However, this should not be interpreted as a sign of fewer violations but as a loss of trust by the Uzbek community to report the wrongdoings of authorities (Interview 65).

Donors very strongly aimed to promote conflict transformation and prevention in southern Kyrgyzstan after the June events – on a donor conference in 2010, US$ 1.1 billion was pledged to support Kyrgyzstan's recovery (Interviews 45, 47; Danielak, 2013). The range of activities explicitly targeting peace included: mediation, interethnic dialogues, supporting youth, conflict-sensitivity trainings, cash-for-work initiatives and social infrastructure projects (for a more extensive description, see Megoran, Satybaldieva, Lewis, & Heathershaw, 2014). Of course, it is not possible to evaluate this large range of activities within this research paper.[85] The question also is whether one could evaluate their impact at all. One possibility would be to assess the current situation – which is clearly not marked by stable and harmonious interethnic relations – and assume that what donors have done has been irrelevant. Another (equally unsatisfying) possibility would be to assume that donors have had a large impact simply because violence has not broken out again (Interviews 65, 69). The main problem is that it is simply too early to properly assess these interventions (Interviews 61, 64). Nevertheless, although some interviewees regarded particular aspects of donor engagement in support of ethnic reconciliation as being successful,[86] most interviewees had a very negative opinion about international attempts to foster conflict resolution and prevention (Interviews 44, 50, 55, 57, 61, 63, 64, 65). Several problems were pointed out by interviewees that are highly likely to decrease the impact donors could have on ethnic reconciliation.

The first problem is that the violence attracted a lot of short-term attention and funds, which is why many interviewees questioned the sustainability of projects. Initially, many initiatives and projects were supported, whereby new structures, organisations or NGOs were created. But as the country moves out of the spotlight, funding is increasingly drying up – and with it relatively successful projects and NGOs (Interviews 44, 55, 57, 61). The high influx of money has also created the challenge of coordinating international efforts, which was not successful in Kyrgyzstan. Instead both duplications and contradictions were reported (Interviews 55, 61, 64). Describing her own experience with mediation, Danielak (2013, pp. 5–6) writes:

> *This lack of coordination has expressed itself in absurd situations such as when organizations took turns in training community leaders in mediation without sharing a common understanding of the approach, meaning participants had to unlearn content in the second training that they had learnt in the first.*

The plethora of mediators received the most criticism and was generally viewed as a waste of funds (Interviews 55, 61).

The second problem is that whereas donors have been actively working on peace-building issues at the local level, pushing for reforms and ethnic reconciliation at the national level has proven more difficult. The Swiss Federal Department of Foreign Affairs and International Alert have tried – and at least for certain periods of time were able to uphold – a national-level dialogue on interethnic relations. However, no such forum exists today, largely because there is no political will for it (Danielak, 2013). Many interviewees believe that the international community could be voicing its concerns more openly to push for both justice for the past and reconciliation (Interviews 50, 61, 63, 64, 65). Instead

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85   For an attempt at doing so, see Megoran et al. (2014).

86   Some interviewees have pointed out that psychological and judicial assistance for victims of the violence was helpful (Interviews 61, 69). But again, this is not undisputed. Other interviewees claim that not enough was done by the international community to protect the Uzbeks, which is why considerably less discrimination and violations are reported to international organisations (Interview 65).

of raising these issues, the international community is simply accepting the government's unwillingness to deal with ethnic reconciliation – some donors are even stopping their work on projects and programmes with regard to ethnic reconciliation.

*Conclusion*

The influence of the international community with regard to ending and overcoming the interethnic violence was mixed. Only reconstruction was seen as having a clear, positive impact on the process. Not only did donors fund the swift reconstruction, but they also declined to support local authorities twice in order to ensure conflict-sensitivity: Myrzakmatov's plan to reconstruct all of the Uzbeks' houses in the city outskirts was not followed through on, and Kyrgyz protesters against reconstruction were not given land plots. Although the international community cannot be blamed for not having prevented or ended the violence, the fact that no efforts were taken to prepare for an intervention in the case that violence increased has to be looked upon negatively. With regard to investigating the root causes of the violence, an opportunity was missed by not establishing a joint commission. Instead, various national commissions have published their accounts of the events, the international commission's report was labelled as being biased and its head was banned from Kyrgyzstan. Finally, many feel that donors have not been taking a firm enough stance to insist on minority rights and address the issue of ethnic reconciliation.

| Table 4: Ending and overcoming the interethnic violence of June 2010 | | | |
|---|---|---|---|
| **Main components of the critical juncture** | **Domestic factors** | **International contribution** | **Crucial international contribution** |
| Ending violence | Possible explanations: <br> • Low level of actual grievances <br> • Absence of political motives for the violence <br> • Rumours of military interventions by Russia or Uzbekistan <br> • Peace messaging | | |
| Swift reconstruction | • Mayor of Osh agrees to not only resettle Uzbeks in city outskirts | | + Internationally led conflict-sensitive reconstruction |
| Causes of violence remain disputed | • Different national commissions come to different conclusions <br> • Politically convenient causes preferred | - International investigation refuted as biased | |
| Stagnating interethnic reconciliation | • Government unwilling to tackle the issue <br> • Biased prosecution of Uzbeks | - International inaction towards the country's unwillingness to tackle reconciliation | |
| Source: Author's compilation | | | |

## 4.3 The constitutional review process from April to June 2010

*People didn't vote for the constitution or Roza Otunbaeva, they voted for peace and stability.* (Interview 50)

*So the constitution somehow helped both in the short term, to stabilize the post June 2010 situation, as well as in the long term because we have all key actors in the parliament. Coalitions come and go, but still we have a functioning parliament.* (Interview 51)

Kyrgyzstan's opposition has long struggled for a constitutional order in which powers rests not only within the president of the country. After the Tulip Revolution, it initially seemed like the opposition's demands would prevail – the "for reforms" movement of 2006 successfully pressured Bakiev to agree to a new constitution. However, it was only one year later that Bakiev was able to revert these changes and once again install a super-presidential system in Kyrgyzstan (ICG, 2006). Also in the second revolution in 2010, opening the democratic space and limiting the powers of the president was an important slogan of the opposition (Interviews 45, 51). Hence a new constitution considerably limiting the powers of the president was among the promises of the interim government that came to power on April 7.

First, a "Working Group on the Drafting of the Constitution" was created. It was composed of 10 members – five legal experts and five politicians – and headed by Tekebaev (Venice Commission, 2010). The working group was able to deliver a draft constitution by the end of April, only three weeks after the interim government had taken power. Second, divided into four thematic groups, a constitutional council[87] finalised the draft by May, at which time it was given to the Venice Commission for review (Venice Commission, 2010).

Despite discussions to postpone it, the referendum on the adoption of the constitution was held as planned, on June 27, only two weeks after the violent clashes in the south (Huskey & Hill, 2011). The voters were asked to give a single "yes" or "no" vote on one question with three components, namely whether a) they wanted to adopt the new constitution, b) Otunbaeva should remain interim president until the end of 2011 and c) the constitutional court should be disbanded.[88] Despite the tragic events only two weeks earlier, the referendum proceeded orderly and garnered widespread support: 70 per cent of the voters participated and 91 per cent voted "yes" (Kaddik, 2010a).

With the adoption of the new constitution, Kyrgyzstan established the first form of a parliamentary democracy in Central Asia. Despite upholding many parts of the old constitution, the new constitution represents a strong break with the prior system: the prime minister is now responsible for forming the government, the president is elected for a maximum of one six-year term and the number of parliamentary seats was increased from 90 to 120. In order to reduce the possibility of parliament being controlled by the president, no party is allowed to occupy more than 65 seats, regardless of its number of votes (for a complete description of all changes, see Nichol, 2013).

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87   This consisted of 75 members including civil society, political parties and independent experts (Interview 68).

88   More specifically, the voters were asked a single question: "Do you adopt the Constitution of the Kyrgyz Republic and the Law of the Kyrgyz Republic on enacting the Constitution of the Kyrgyz Republic which were put to the referendum as drafted by the interim government" – to which the voters either answered "Yes" or "No".

The new constitution marks the most dramatic change in the constitutional history of Kyrgyzstan as well as a major breakthrough in Kyrgyzstan's transition towards democracy (Interviews 43, 46, 54, 56, 59). In the short-term the constitutional referendum also contributed to stability.[89] Through the referendum, the interim government was able to show that it is indeed capable of controlling and organising a nation-wide referendum (Interview 57). Furthermore, with the swift and successful drafting of the constitution, the interim government was able to uphold one of its promises justifying why it was in power. Additionally, Otunbaeva received the much needed legitimacy of the people to continue running the country as the interim president until December 2011 (Interview 59).[90]

It is not yet possible to fully assess the long-term impact of the constitution on peace and democracy in Kyrgyzstan. In general the situation today is assessed positively, with most observers noting that the parliamentary system is indeed working and politicians are abiding by the constitution (Interviews 43, 53, 54, 59, 60, 66). Most interestingly, many observers feel that by introducing a semi-parliamentarian system, the constitution has been able to stabilise the political situation in the country because all major political players are included in the current system of government. This means that conflicts are now settled within the institution of the parliament, rather than on the streets (Interviews 51, 60, 75, 76). Therefore, the adoption of a new constitution might have significantly reduced Kyrgyzstan's likelihood of a third revolution (Interviews 50, 51).

*A new constitution is written in three months*

In the constitutional review process in 2010, a new constitution was written and agreed upon extremely quickly: the interim government came into power on April 7; on April 26 the first draft of a constitution was presented. This draft was then discussed and finalised only one month later. In many countries, similar processes end in protracted and lengthy negotiations – in Nepal, a Constitutional Assembly discussed a new constitution for four years; in the end, the assembly was dissolved without having been able to complete a final draft (Grävingholt et al., 2013).

Interviewees put forward different arguments as to why it was possible to write a new constitution in such a short amount of time. First, several interviewees expressed the opinion that the revolution in April 2010 was a long time in the making, with members of the later interim government already having prepared a text for this purpose (Interviews 61, 66, 74). Second, even if this was not the case, expanding the powers of the parliament had been on the agenda of the opposition for many years – the idea of parliamentarism and details of it were therefore well-known to many Kyrgyz politicians (Interviews 51, 67, 68, 75). Third, the unsuccessful constitutional review process in 2005 and 2006 led to the conviction that the process could only be successful if it was done quickly, without a president in power who could manipulate the process (Interviews 51, 68).

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89  For an argument as to why the constitutional arrangements might lead to more instability in the long-run, see Luong (2010).

90  If it is indeed true, as some allege, that the violence in the south was instigated specifically to derail the constitution-writing process, the fact that the constitution was written and adopted would be an even greater achievement. However, as explained in the last chapter, this has not been proven. Some people actually believe that the interim government itself instigated the violence in order to be able to push through the constitution as swiftly as they did (Interview 71).

It is also very interesting that the constitutional review process occurred without larger frictions between political actors, which of course partially also explains why it was possible to write the new constitution so quickly. Again, several arguments as to why this was the case were put forward. First, the past experiences with the presidential system had made it clear to many politicians that a presidential system could too easily lead to large-scale corruption, family rule and to turmoil and revolutions in the end (Interviews 50, 52, 60, 68, 75). Second, the working group and constitutional council benefited from a strong political will among almost all of their members to drastically rewrite the constitution, largely because they were truly convinced this was the right way forward (Interviews 45, 59, 60, 67), but also because opposing forces were not included in the process (Interviews 59, 68). This explains why there were no really divisive discussions in the process. The only topic that did start a larger debate was whether Kyrgyzstan would be declared a secular country – a clause that was at first removed but ultimately kept (Interview 52). Third, the political situation in 2010 was one of very diffused and unclear power relations. Introducing a parliamentary system meant giving many players an opportunity to access power, representing a beneficial solution and attractive option to both the new and old forces (Interviews 51, 59).

In the end, in an astonishingly small amount of time, a new constitution was drafted that has been praised for its quality both from international (e.g. the Venice Commission) and local analysts (Interviews 53, 57, 66, 76).[91] Indeed, the constitutional design itself has to be credited for the many innovative regulations enshrined in it that are aimed at preventing another super-presidency. The part on human rights in particular is looked upon very positively due to its comprehensiveness and progressiveness (Interviews 66, 53). Also, the drafting process itself was often commended as being inclusive and transparent (Interviews 45, 51, 52, 58).

During the drafting process, local actors were very open to – and actively sought support from – the international community (Interview 69). The main – and almost sole – project actively supporting the constitutional review process in 2010 was the UNDP project Support to Constitutional Reform in the Kyrgyz Republic, which was mainly funded by the EU (Interview 56). UNDP offered different types of support by, e.g., inviting experts, providing office and meeting spaces, or designing a working plan together with the constitutional council. UNDP had been working with the Kyrgyz parliament since 1998, thereby building up a relationship with many, in particular the reform-minded politicians (Interview 68). It is indeed telling that only one day after the revolution, the interim government called UNDP and asked for its support in drafting a parliamentary constitution. Because there had been a parliamentary support project in place before the revolution, it was possible to quickly reorient the project accordingly and support the process (Interviews 56, 68).

Regarding the content, most notably, the expert advice of the European Commission for Democracy through Law – also known as the Venice Commission – is looked upon posi-

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91    Although criticism was also put forward, the interviews did not reveal that any particular part of the constitution was seen as being consistently weak. This criticism includes: contradictions (Interviews 57, 61), unclear division of power between the different branches of government (Interviews 61, 69) and a lack of minority rights (Interviews 45, 57).

tively by local analysts (Interviews 51, 59, 60).[92] This was the most visible external engagement in the constitutional review process in Kyrgyzstan. Additionally, it was pointed out that the section on human rights is so strong because of civil society, which has continuously been supported by donors (Interview 68). It also seems that donors positioned themselves to keep the clause stating that Kyrgyzstan would remain a secular state. However, local actors also strongly lobbied against this revision (Interviews 53, 61, 68).

Although these projects certainly played a supportive role in the constitutional review process, none of the interviewees pointed out that the constitutional review process proceeded so smoothly and quickly because of donor engagement. Also, with regard to the content, a clear impact of donor engagement could not be traced. Similarly, Call (2012, p. 27) notes: *"External actors played a minimal role outside of nominal consultations."* This cannot be explained by a lack of international actors' importance or even mistakes by the international community: *"In terms of restoring its constitutional basis, the interim government showed more skill, speed, and determination than most post-coup transitional governments. That path meant that outsiders had little influence, but also that the constitutional reforms and new parliamentary system were adopted without being significantly watered down."* The swift drafting process can simply be explained by local rather than international factors.

*The peaceful, free and fair referendum*

The referendum was held only two weeks after the interethnic violence in the southern parts of the country, but it was nevertheless able to produce a result that was deemed credible, both by local and international observers (Huskey & Hill, 2011; Organization for Security and Co-operation in Europe / Office for Democratic Institutions and Human Rights [OSCE / ODIHR], 2011; Interviews 45, 60). Many regulations had to be amended in order to make this possible: the state of emergency in the south had to be lifted; a strong showing of law enforcement was arranged for the south; citizens were allowed to vote outside of their usual precincts – in Osh and Jalalabad, even without identification (Huskey & Hill, 2011; Kaddik, 2010a; OSCE / ODIHR, 2010b).

Despite the major achievement of organising and conducting the referendum in the midst of the chaotic situation in June 2010, donors were not an important part of this process.[93] The UNDP election support programme was not fully active yet – the project only came into being in May 2010. Due to the short time frame, its support was hence limited (Interview 69; United Nations Development Programme [UNDP], 2012). Usually donors would have naturally supported the Kyrgyz Central Elections Commission (CEC) in organising the referendum; however, as the OSCE observation report notes: within the CEC, *"a further six advisory seats were available for international experts, of which only one was filled by referendum day"* (OSCE / ODIHR, 2010b, p. 7) – why this opportunity was not taken remains unclear. The OSCE itself issued an observation report, albeit only through a limited observation mission – they refrained from sending the originally envisioned amount of long- and short-term observers, due to the unclear security situation (OSCE / ODIHR, 2010b).

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92   Some interviewees claimed that, due to the Venice Commission, the constitutional chamber was saved; however, this could not be further corroborated (Interviews 59, 60).

93   For an opposing view, see Collins (2011).

*Overwhelming support for the new constitution*

In the referendum the constitution was endorsed with an overwhelming majority of 91 per cent, based on a rather high turnout of 71 per cent.[94] Some analysts are of the opinion that this result reflects the people's disappointment with the presidential system and the authoritarian rule it had led to (Interviews 43, 75; OSCE / ODIHR, 2010b). However, the majority of interviewees expressed the view that people voted for the constitution not because of the parliamentary or more democratic nature of it, but because it was seen as a necessary step to foster short-term stability in the country (Interviews 50, 57, 61, 74). The impression that the country was on the brink of disaster and only a "yes" vote could save it would also explain the relatively high turnout (Interviews 59, 60). As one interviewee put it:

> *So with all these bloody conflicts in the country of course people were eager to have some stability. They were just looking for peace – any constitution that you will propose and guarantee them that it will bring them peace, will be supported* (Interview 50).

Exacerbating this dynamic was a very "yes"-side-oriented civic education and the fact that all three issues that were voted on within one question – whether to adopt the constitution, legitimise Otunbaeva as interim president and abolish the constitutional court (OSCE / ODIHR, 2010b). This presented voters with a dilemma: either voting "yes" – which in their eyes would promote a new constitution and president, and hence stability – or "no", thereby fostering instability (Interviews 50, 59). Although this focus on stability ensured that the constitution would be passed rapidly, and with a high approval rate, this also meant that an opportunity was missed to not only reform the political institutions governing Kyrgyzstan but also to rally the people of Kyrgyzstan behind the new constitution and its actual content.

Donors were again able to play at least a supporting role in the dissemination and discussion of the constitutional draft. According to the OSCE (2010b, p. 11): *"Considerable efforts were made by a variety of international and non-governmental organizations and the authorities to disseminate the draft constitution widely."* One and a half million copies of the constitution were printed by the CEC; 330,000 copies and 620,000 leaflets by the EU / UNDP (OSCE / ODIHR, 2010b). Additionally, donor support through UNDP may have also helped increase the transparency of the process by ensuring that discussions were broadcasted on TV. It was not possible to find out whether donors were critical of how the constitution was being discussed and whether they attempted to foster a more balanced approach.

*Conclusion*

Donors played a supportive, albeit secondary, role in the constitutional review process. UNDP and the Venice Commission were able to support the drafting of the constitution. Although donor engagement was also geared towards enabling the dissemination of – and encouraging discussions on – the constitution, donors were not able to prevent these discussions from being framed almost entirely as an issue of stability. Finally, the international community did not play a role in organising the challenging referendum in June 2010. After the adoption of the constitution, Western diplomats congratulated Kyrgyzstan, whereas Russia and Kazakhstan openly showed their concerns and stated that a parliamentary form of government might cause further instability (Kaddik, 2010b; Mirsayitov,

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94   Although both turnout and approval rates were lower in the south than in the north.

2011). However, Russia at the time did not take any concrete actions to prevent the adoption of a semi-parliamentary constitution (Interviews 61, 75; Call, 2012).

| Table 5: The constitutional review process from April to June 2010 | | | |
|---|---|---|---|
| **Main components of the critical juncture** | **Domestic factors** | **International contribution** | **Crucial international contribution** |
| New constitution written in three months | • Parliamentary form of government a long-standing demand of the opposition<br>• Little friction between politicians<br>• Considered important for stability of the country | | |
| Peaceful, free and fair referendum | • Strong will among government to hold referendum as agreed upon<br>• Flexibility, e.g. amendment of many voting regulations | | |
| Overwhelming support for new constitution | • Voting for the constitution was equated with ensuring stability<br>• Civic education oriented to "yes" side<br>• Three questions in one | | |
| Source: Author's compilation | | | |

The true impact of the new constitution can only be assessed in several years and only if it is not reverted. To this end, an innovative clause was incorporated into the law of the enactment of the constitution – no changes are allowed to be made to the constitution before 2020 (Interviews 52, 59, 60).[95] Nevertheless, discussions about changing the constitution exist and might get stronger in the future (Interviews 45, 46, 54, 59, 74).

## 4.4 The parliamentary elections in October 2010

*It was the fairest election we have ever had.* (Interview 50)

[They] *played a key role for stability because an official organ has been created, which represents the power and is in charge of the situation in the country.* (Interview 74, translated)

The parliamentary elections in 2010 marked another crucial step in Kyrgyzstan's democratic transition – in October 2010 a new parliament, considerably empowered through the new constitution, was voted for in country-wide elections *"that local and international observers have hailed as the freest, fairest, and most competitive Central Asia has ever seen"* (Collins, 2011, p. 150). More than 3,000 candidates from 29 parties contested in the elections[96] (Huskey & Hill, 2011).

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95   This does not necessarily mean that the constitution will be left untouched until 2020. The Supreme Court has already received a request on whether it would be possible to change the constitution (Interview 60).

96   The most prominent cleavages were between parties positioning themselves with regard to the new parliamentary system, the interim government, the envisioned ties to Russia and appealing to northerners or southerners (Huskey & Hill, 2011).

In the end only 5 of the 29 parties were able to master both the national (5 per cent) and regional (0.5 per cent) hurdles and move into the parliament: Ata-Jurt, the Social Democrats (SDPK), Ar-Namys, Ata-Meken and Respublika (Huskey & Hill, 2011). What came as a surprise to everyone was the completely unexpected result – the newly created Ata-Jurt party, a clearly nationalistic and anti-interim government party consisting of former Bakiev supporters, became the strongest force, with 28 seats. Otunbaeva's SDPK only came in second. However, she accepted the results and spoke of a victory for democracy.[97]

Although the first coalition[98] was seen as having broad-based legitimacy because it incorporated representatives of the north and the south as well as pro- and anti-interim government forces, it did not hold. In fact, three ruling coalitions have broken down since the end of 2010, with Ar-Namys, the SDPK and Ata-Meken currently holding power[99] (Interview 43). Three main parties (Ar-Namys, Ata-Jurt and Respublika) are now threatening to fall apart (Interview 53; Huskey & Hill, 2011).

The parliamentary elections constitute a clear step towards democracy for Kyrgyzstan. Never before had Kyrgyzstan experienced elections in which it was not possible to predict the outcome. Kyrgyzstan seemed to be on the verge of becoming a failed state in 2010, but the parliamentary elections (and the constitutional referendum) helped to put the country back on track (Interviews 52, 61). Because of these elections – the first since the revolution in April – a legitimate institution was once again ruling the country.

But the parliamentary elections also had a more lasting impact on both stability and democracy in the country. First, the parliamentary system distributed power to a larger circle of people. Second, for stability in Kyrgyzstan, it is considered highly important that all major political actors – revolutionary and reactionary – are empowered through the parliament (Interviews 51, 52, 58, 74). The revolutions in 2005 and 2010 were both about elite struggles – that the new parliament encompassed almost the entire elite may have decisively decreased the chances of a third revolution in Kyrgyzstan (Interviews 50, 74).

*Free, fair and peaceful elections*

Despite some technical weaknesses, local and international observers concur in assessing the elections as being both free and fair (Interviews 50, 51, 52, 53, 56, 58, 75; OSCE / ODIHR, 2010a).[100] Indications for the fairness of the elections were first drawn from the fact that the results were completely unexpected (Interviews 50, 52, 54, 66, 75). In fact, opinion polls had falsely predicted that: the SDPK (the party of the interim president) would be the clear winner; other parties that ultimately did not make it into parliament (e.g. Ak-Shumkar) would be quite successful; and that Ata-Jurt (which in the end garnered the most votes) would fail to be represented in the parliament (Interview 54).

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97  Apparently, Roza Otunbaeva was greatly upset. Allegedly, she angrily stated, *"Thanks to our democracy we brought the party of Bakiev to parliament"* (Interview 73).

98  This took three months to build.

99  In fact, the last coalition comprised the same parties as the current one. Only governmental posts were redistributed.

100  This, however, does not mean that no irregularities occurred. Interviewees reported that there were repeated incidences of, e.g., ballot stuffing, vote buying and family voting. They also agreed that these were not stark enough to have affected the final results (Interviews 56, 58, 37).

What explains the fact that the elections were free and fair? Most respondents very clearly felt that the major parties were simply too weak to skew the elections in their favour. The incumbent government was made up of personalities representing competing parties – none of which had sufficiently consolidated their power in order to use administrative resources for their gain (Interviews 50, 53, 54, 73; Dzhuraev, 2012). As a result, many felt that there was real competition, and genuine discussions were held about possible future paths of the country in the run-up to the elections (Interviews 73, 51, 54). Another likely influencing factor was the new composition of the electoral commission, with the interim government, political parties and civil society each nominating a third of the total number of members (Interview 52).

Although the elections were free and fair, they also struggled with some organisational issues. First, a very high number of votes were lost because they were given to parties that failed to pass the 5 per cent hurdle (Interviews 51, 58).[101] Second, voter turnout was rather low (55 per cent) compared to the referendum (75 per cent). This can partially be explained by the strict residency rules that had temporarily been eased for the referendum but again put in place for the elections (Huskey & Hill, 2011). Generally, these rules regularly prevent higher voter participation. For example, students in Bishkek cannot vote if they are registered in their home towns. In the end, 46 per cent of the population did not vote, and 19 per cent of the votes went to parties that did not garner 5 per cent – the current Kyrgyz parliament was hence legitimised by a clear minority of the electorate. Another problem during the actual election was that the registration process was chaotic (Interviews 74, 58). As one interviewee put it: *"One third of the population was not allowed to vote because there were big problems with the electoral registers"* (Interview 71). Similarly, the OSCE pointed out that voter lists and registration were highly problematic, leading to the *"disenfranchisement of thousands of citizens"* (OSCE / ODIHR, 2010a). Hence, registration remained a problem and cost many Kyrgyz citizens their right to vote. Indeed, it is surprising that a country that has held elections so many times struggled this much with a technical issue (Interview 71).

What explains the fact that the elections were peaceful? Many feel that due to the smooth execution of the elections and the fact that both reactionary and revolutionary forces were able to garner seats, the potential for instability decreased (Interviews 52, 54, 74).[102] A potential cause for violence could have been that, out of the 29 parties, only 5 made it into parliament. Particularly problematic was that one party, Butun Kyrgyzstan, initially seemed to have passed the 5 per cent hurdle but was declared not to have garnered enough votes for parliament[103] (Huskey & Hill, 2011). The leader of Butun Kyrgyzstan, Adakhan Madumarov, initially did not accept this result and threatened to organise protests. However, in the end, he refrained from doing so. Interviewees had different theories as to why Madumarov refrained from protesting and accepted the result. First, the CEC

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101 Part of the problem was that the percentage thresholds were calculated from the registered voters and not from the actual ballots cast. Redefining the thresholds is an important topic in Kyrgyzstan today (Interviews 61, 58).

102 One interviewee claimed that it was actually civil society that persuaded Otunbaeva to let Ata-Jurt take part in the elections (Interview 73). If this is true (it could not be further corroborated), the relevant activists played an important role to ensure that the elections in 2010 were peaceful.

103 This was because the percentages were calculated from the registered votes. Although initially it seemed that Butun Kyrgyzstan had garnered enough votes, the CEC added another list with an additional 250,000 registrants, whereby Butun Kyrgyzstan no longer passed the 5 per cent hurdle (Interview 58).

recounted the votes. After a month of a reportedly very transparent recounting process, they showed that the results remained the same and that indeed Butun Kyrgyzstan had not made it into parliament (Interviews 54, 75; Huskey & Hill, 2011).[104] Domestic observers provided their statistically based observations, showing that their results conformed with the CEC's (Interview 54). This leads some to believe that Butun Kyrgyzstan really had not passed the threshold and that Madumarov had to accept his defeat (Interview 75). Others believe that a deal was struck to accommodate Madumarov (Interviews 54, 58) or that he was pressured into accepting the results by the parties that had made it into parliament (Interviews 54, 74).

Several international programmes actively supported the parliamentary elections in 2010. The biggest project was the UNDP basket fund the Kyrgyzstan Electoral Support Project, which worked on issues such as voter lists, civic education, training of personnel, revising electoral legislation and technical support to the CEC. Additionally, a lot of training of lower-level administration bodies occurred through IFES. With the support of the NDI, USAID and the OSCE, a "Code of Conduct of Political Parties" was drafted and then signed by 26 parties in August. Finally, the elections were observed by an international observer mission of the Office for Democratic Institutions and Human Rights. Although these programmes are sure to have had a supportive role, they are generally not considered to be particularly crucial to the process. Donors themselves are aware of their limited influence in the elections of 2010: *"We do important things, but still, do we believe that it is the only thing, which makes election happen? No, absolutely not. Had the results of elections been completely different, if we did not participated at all, I don't know, I believe that most likely they would have remained the same"* (Interview 58).

*A struggling parliament*

Many interviewees were very critical of the members of parliament who were elected in October 2010. Most see the parliamentarians as business elites serving individual interests (Interviews 44, 46, 47, 50, 57, 63, 69). Instead of progressively pursuing reforms, the parliament is still struggling with nepotism and corruption (Interviews 42, 51, 61). A bitter joke among the population is that instead of one, Kyrgyzstan now has 120 thieves. The election result itself is considered to have been heavily influenced by the violence in June, as several parties were able to convincingly criticise the interim government for its immobility – several parties appealed to nationalist sentiments and presented themselves as heroes who would protect the Kyrgyz people in the future (Interviews 54, 66, 74; Dzhuraev, 2012; Engvall, 2011; Huskey & Hill, 2011). What is more, Ata-Jurt, which is largely comprised of former Bakiev supporters and actively called for reverting Kyrgyzstan to a presidential system, not only won the most seats in the parliamentary elections but also became part of the first ruling coalition in the new parliament (Call, 2012).

Since the elections in October 2010, three ruling coalitions have been formed and collapsed. Surprisingly, rather than criticising the frequent changes of government, most interviewees stressed the important fact that the parliament continues its work (Interviews 47, 58, 63, 75). Initially, many were highly sceptical as to whether the parliament would

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104 Nevertheless, rumours still exist that Butun Kyrgyzstan actually made it into the parliament, but Ata-Meken was given its place instead (Interviews 54, 74).

survive until the next elections: *"There was really a lot of hope that the system would work, but not a lot of belief that it actually would. I think it has fared a lot better than many anticipated"* (Interview 63). If the alternative scenario was really a collapse of the system, then the fact that the parliament is still working has to be considered a positive development. Many feel that parliament has found a way to cope with the frequent changes in government (Interviews 47, 58, 63), and that installing a legitimate and peaceful way to change who is in power has actually increased stability (Interviews 51, 52, 75).[105] Since the elections, several external actors have been working to strengthen the parliament, most notably USAID and the Department for International Development, through the parliamentary support project. Several interviewees considered this programme to be effective (Interviews 47, 66).

*Conclusion*

Although the elections represent an important step in Kyrgyzstan's path towards democracy, donors did not have a decisive impact – positive or negative – in shaping this critical juncture.

| Table 6: The parliamentary elections in October 2010 | | | |
|---|---|---|---|
| **Main components of the critical juncture** | **Domestic factors** | **International contribution** | **Crucial international contribution** |
| Free, fair and peaceful elections | • No party strong enough to skew the elections<br>• Well-organised by new electoral commission<br>• Both old and new forces garnered votes<br>• Madumarov refrains from protesting | | |
| Struggling parliament | • Nationalistic parties<br>• MPs business elite<br>• Regular breakdowns of government, but parliament continues to work | | |
| Source: Author's compilation | | | |

Kyrgyzstan's democratic development will also critically hinge on the next parliamentary elections, due in 2015: *"That could make or break this experiment"* (Interview 63). Most likely, voting technology will be used both for ballot scanning and the counting of votes. Although the aim is to increase transparency, ensure that elections remain free and fair, and thereby increase the citizens' level of trust, first pilot tests have gone *"terribly wrong"* (Interview 45). The parliamentary elections in 2010 set a good example for free and fair elections – a development that needs to be sustained. But in order to truly increase people's

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105 Of course, not everybody sees this positively, and the question has to be raised: Why does this reshuffling take place so often? A possible explanation is that being in politics in Kyrgyzstan is still very much about private interests. Because there are not enough government positions available to satisfy the many interests, new governments have to be formed regularly (Interview 11).

trust towards the regime, it will be necessary to not only continue free and fair electoral processes but also to ensure that politicians become more responsive – and responsible.

## 4.5    Summary

The international community did not have a particularly strong impact on the peace and democratisation process in Kyrgyzstan after 2010. Both in the constitutional review process and in the parliamentary elections, donors primarily played a supportive role. The main components of the two critical junctures can almost solely be explained through local factors and dynamics. The strongest impacts – both positive and negative – of the international community could be seen in the first critical juncture, namely with regard to the interethnic violence. Donors were highly praised for their swift and effective reconstruction efforts. Conflict-sensitive reconstruction demonstrates that international actors can have an important impact by preventing negative outcomes. However, with regard to other aspects, they were less able – or not able – to do so. Had violence continued or escalated, the international community would not have been prepared to help. The opportunity was missed to establish a joint commission to investigate the June events, whereby it might have been possible to establish an account of the root causes of the violence that was acceptable to all sides. The international community could be more active in pursuing ethnic reconciliation in the country.

## 5    Appraising the hypothesis

Three factors were analysed in order to understand why international actors succeeded or failed to effectively promote peace and democracy in Kenya and Kyrgyzstan: prioritising stability over democracy, cooperative vs. coercive forms of support and donor coordination. The following sections appraise each of these factors in detail.

## 5.1    Prioritising stability: Mostly negative effects

Prioritising stability at the expense of supporting deeper democratisation proved to have mostly negative effects in both cases. In Kyrgyzstan, stability was prioritised in the constitutional review process with mixed results. With regard to ethnic reconciliation, this approach led to a negative outcome. In Kenya, stability was clearly prioritised in the elections of 2013, whereby important democratic principles were undermined in the short-term, endangering democracy and stability in the long run. In contrast, mediation in Kenya in 2008 that was aimed at creating temporary stability and enshrined far-reaching governance reforms seems to have been more successful.

In the Kenyan elections in 2013, donors clearly prioritised stability (Interviews 2, 4, 6, 8, 9, 11, 22, 28). In doing so, they were following the general mood in the country, as there was *"really a concerted effort, including the international community, really to go for peace"* (Interview 4). Although donors contributed to the elections remaining peaceful, this focus on stability also had negative consequences for the effectiveness of donor engagement. Many donors are aware of the negative effects this prioritisation of stability

has had, and they intend to act differently in the next elections (Interviews 4, 9, 22). The donors' prioritisation of stability over democratic principles can most clearly be seen in their support to the IEBC. Already before election day, it had become clear that the IEBC was immensely struggling to ensure free elections, and that several democratic principles were being violated by them. However, they were not held accountable or confronted by strong criticism by donors because donors feared that this would have a destabilising effect (Interviews 4, 9). One interviewee from the donor community described the situation as follows:

> [W]e overlooked so many other things that we thought were not going as they should, but for the sake of peace we said, "let's live with this". The results were there for everybody to see. Like when the procurement process for various materials was delayed, when the various pieces of legislation were being pushed forward and there was not enough time to implement them; we said, "okay, we can live with that". It sort of compromised the quality of preparations…. Like with the IEBC. Some of the weaknesses we could see were not being brought out because we knew that once people lost faith then what happens? (Interview 9)

Ideally, a credible and fair election process should ensure peaceful elections. However, in Kenya, the peacefulness of the elections cannot be attributed to their fairness but rather the overriding peace narrative presented at the time. The elections were marred by several flaws but nevertheless declared free and fair, leading to resentment and frustration in large parts of the population. The consequence of Kenya's and the international community's focus on stability was that yet another democratically questionable election had put Kenya on an uncertain path to the future, with regard to both democracy and stability (Elder et al., 2014).

In contrast, stability was not prioritised in the mediation of 2008.[106] The mediation agreement of 2008 goes far beyond a peace agreement and includes a wide variety of democratic reforms that were subsequently implemented. By not prioritising stability in 2008, *"the international community's response helped turn the crisis into an opportunity for long-term reforms"* (Kanyinga & Walker, 2013, p. 15). It is for this reason that international engagement is highly praised in Kenya and is believed to have contributed substantially to the peace and democratisation process in the country.

In Kyrgyzstan, a prioritisation of stability could be traced both to donors' reactions to the violence and the constitution.[107] Peace was strongly stressed with regard to the constitutional review process, which was essentially about restoring democracy in Kyrgyzstan (Interviews 50, 61, 74). This general attitude to the process is also reflected in donors' approaches. Supporting the constitution drafting process was considered an important step to restore stability in the country (Interview 68). The UNDP assessment team felt that the country needed legitimate institutions, e.g. a constitution and parliament, to restore stability (Interview 68). As with the mediation in Kenya, stability in Kyrgyzstan was to be achieved through a certain degree of democratisation. This prioritisation had a positive effect: the constitution was written quickly and accepted by a large share of the

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106 See Brown (2009) for the opposing view, namely that pushing for a power-sharing agreement rather than a rerun signifies donors prioritisation of stability.

107 Whereas in Kenya interviewees were very aware of the fact that international actors had prioritised stability, this was less the case in Kyrgyzstan. In fact, several interviewees claimed that stability has not been prioritised in Kyrgyzstan (Interviews 42, 53). Despite it not being a common thread in the national discourse, I believe that the Kyrgyzstan case does offer examples of a prioritisation of stability.

population via referendum, laying the foundation for Kyrgyzstan's transition to democracy. One possibly negative effect of framing the constitutional review process more as an issue of stability than democracy might be that the opportunity to truly rally the people of Kyrgyzstan behind the new constitution and political system of the country was missed.[108] To summarise, the above shows that prioritisation has certain negative effects, but also that, in specific circumstances (the direct aftermath of a conflict), a certain prioritisation of stability also has positive effects.

In Kyrgyzstan, the international community also seems to be accepting temporary stability instead of pushing for further reforms tackling the root causes of interethnic violence. Donors clearly prioritised stability in this sense with regard to their handling of the KIC report and the local reactions to it. The international community was primarily happy that a new, legitimate parliament and government existed and were running the country. This also meant that they refrained from pressuring the Kyrgyz government to work on implementing the recommendations of the KIC or other commissions' reports, e.g. by strengthening minority rights (Interview 57). The international community's reluctance to take a clear stance in this matter seems to result from a fear of destabilising the country. This is not to say that were the international community to take a clear stance, this would automatically lead to a rethinking of the government. Even if international actors were to apply more pressure for addressing the issue of ethnic reconciliation, these efforts might prove to be in vain due to a lack of local ownership of the topic. However, no indications could be found that the international community is trying to do this (Interviews 55, 57, 65). The international community is simply accepting that a crucial issue is not being dealt with, which endangers long-term stability in Kyrgyzstan.

To summarise, prioritising stability at the expense of supporting deeper democratisation was shown to have mostly negative effects in both cases. Only in the direct aftermath of the revolution and interethnic conflict did a certain degree of prioritisation of stability have positive effects, namely because a new constitution for Kyrgyzstan was written quickly and broadly accepted by the population. But also the fact that mediation aimed not only at temporary stability but enshrined steps to be taken to ensure the root causes of violence to be tackled seems was successful. Also successful were the mediation efforts, which were aimed not only at establishing temporary stability but also enshrining steps to ensure that the root causes of violence would be tackled. It is because Kofi Annan and his team did not prioritise stability over democracy – but instead promoted both goals simultaneously – that donors had a decisive, positive impact in Kenya, both on peace and democracy.

## 5.2    Cooperation vs. coercion: A mixed picture

With regard to the forms of support, the results from the two cases are mixed. In Kenya, two cooperative instruments had a strong impact on the respective critical junctures: mediation in 2008 and the funding of the CoE in 2010. However, coercive measures supported the mediation attempts, and a lack thereof might have prevented donor engagement from having a more positive impact in the elections of 2013. Then again, a coercive measure used in the 2013 elections, namely diplomatic pressure, was not

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108  For example, some feel that people in Kyrgyzstan still cherish stability more than democracy (Interview 54).

successful. In Kyrgyzstan, only cooperative instruments were applied, with varying degrees of success.

Mediation in itself is a cooperative instrument that, in the Kenyan case, was successful – many feel it prevented the outbreak of a civil war. However, mediation was supported by coercive instruments – political pressure in the form of threats to enforce travel bans and the freezing of assets. Furthermore, international mediation and sanctions were complemented by donors' threats to decrease aid. These different types of coercive instruments helped to force Kibaki and Odinga to agree to – and successfully conclude – the mediation (Brown, 2009; Jepson, 2014; Kanyinga & Walker, 2013).[109]

With regard to the constitution, donors felt that coercion was not necessary because the momentum for change existed in the country (Interviews 2, 4). Western governments did not even position themselves clearly in support of the draft constitution presented by the CoE. Instead, in this critical juncture, a cooperative instrument proved to have had a strong impact – donors providing funding for the CoE is believed to have been key in overcoming an obstacle in the constitutional review process.

When supporting the elections in 2013, the use of a cooperative instrument, namely the funding of the IEBC, proved more problematic. The UNDP fund supported the IEBC by, e.g., providing millions of dollars for registration technology, which largely failed to work on election day. Why was donor support not able to better prepare the IEBC for the elections? The evaluation critically notes that technical capacity-building was supposed to have been integrated into the programme but was largely absent. The reason for this seems to have been that the IEBC was simply less interested in capacity-building than funding. The problem is that it is not clear (and not possible to fully assess within this research paper) whether the IEBC had deliberately not prepared itself for the elections. But the fact that the IEBC did not make use of the technical capacity-building component of the programme could be a sign of trying to keep international actors out of the main processes. What is then surprising is that the donors involved in the fund never pressured the IEBC to use what was being offered via the technical capacity-building, even when it became increasingly clear that the IEBC was poorly prepared for the elections. As argued above, it was the fear of destabilising the situation that led donors to restrain themselves from voicing criticism at a time when it was much needed.

The biggest problem in the elections of 2013, however, was the use of diplomatic pressure prior to the elections in order to prevent the Jubilee Alliance from winning the elections. Western diplomats stated that "choices have consequences" and that there would be "essential contact only" if Kenyatta and Ruto were to win the elections. The use of this coercive instrument actually had the reverse effect: Western diplomats were portrayed as an enemy trying to restrict Kenyans' freedom to choose their leaders. *"When they did make forceful statements, in early 2013, the timing could not have been worse. If anything, their threats encouraged the very events they sought to avoid, and subsequently made donors look weaker than ever"* (Brown & Raddatz, 2014, p. 56). This resulted in even stronger support for the Jubilee Alliance and continues to strain the relationship between the international community and the Kenyan government.

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109 Interviewees gave contradictory information on whether (and what kind of) pressure or coercion was used, and by whom. However, given their clear stance, this argument is based on the existing literature on this topic.

In Kyrgyzstan, neither coercion nor political pressure were used in any of the three critical junctures (Interviews 42, 44, 45). One reason for this is that many felt that things were generally moving in the right direction in 2010 (Interview 61). In the elections and during the constitutional review process, it was simply not necessary to use coercion or pressure. At the same time, the cooperative instruments used were not of critical importance. These processes were open to donors, but mainly driven by the political will of local actors, thereby reducing external actors' role to a limited supporting one (Interviews 68, 69). In contrast, the local political will to address the root causes of the violence in 2010 is clearly lacking. Many feel that the international community could be more vocal with regard to the lack of serious attempts at ethnic reconciliation (Interviews 55, 57, 65). Many know that these issues need to be tackled but simply accept that addressing them is currently not possible politically, and do not try to convince the government of rethinking its strategy. Although it is not clear that the use of a coercive measure would be able to make a difference here, an attempt could be worth it.

To summarise, both coercive and cooperative instruments proved to be effective in some cases but ineffective in others. Although coercion helped mediation in Kenya succeed and could have moved interethnic reconciliation in Kyrgyzstan forward, it proved ineffective in the form of diplomatic pressure against the Jubilee Alliance, as local support for this approach was lacking. Similarly, funding the constitutional review process in Kenya, a cooperative instrument, was highly successful, but a similar cooperative approach faced considerable limits when used to support the IEBC during the 2013 elections. The mediation in Kenya shows that combining coercive and cooperative instruments can be very successful.

## 5.3 Coordination: Mostly positive effects

Good coordination proved to have mostly positive effects and bad coordination negative effects, lending support to the hypothesis that coordination is conducive to effective support to peace and democracy. Donor support was generally well-coordinated in all three critical junctures analysed for the Kenyan case. In Kyrgyzstan, a more mixed picture emerges – coordination worked well in two out of three critical junctures.

It is also interesting to compare coordination in Kenya and Kyrgyzstan, not only in the respective critical junctures, but also more generally.

A plethora of donors are active in Kenya (Interviews 12, 17, 20, 22). Coordinating these efforts poses a particular challenge, to which donors have responded by developing a detailed coordination structure (de Zeeuw, 2010). However, the Kenyan government plays a very minimal role in it (Interviews 6, 18, 20). When asked about the role of the local authorities and recipients in coordination, one interviewee from the donor community simply answered *"We coordinate ourselves"* (Interview 7). Whereas in other countries donor working groups are often co-chaired by local counterparts, the feeling in Kenya was that *"here it is really like us and them"* (Interview 18). Some interviewees were critical

towards this fact and felt that with donors mainly coordinating themselves, an opportunity for constructive political dialogue with the Kenyan side is being missed (Interviews 6, 20).[110]

The situation in Kyrgyzstan in many regards resembles that of Kenya, the main difference being that there are fewer active donors (Interviews 44, 45).[111] The main coordination mechanism in Kyrgyzstan is the Development Partners Coordination Council. Although this forum sits regularly, it is not believed to be vital (Interviews 44, 57). When asked about its effectiveness, one interviewee from the donor community stated: *"Most donor coordination is a little bit flabby and ineffectual. I think this one is worse than others"* (Interview 63). Also here, the main problem identified was that the Kyrgyz government does not play a clear, leading role in coordination (Interviews 44, 57, 63, 65). As a result, neither the Kyrgyz government nor donors among each other are truly informed about donor activities (Interview 44). Some interviewees felt that the Kyrgyz side is actually using the poor coordination between donors to pit them against each other, often successfully arguing that if one donor is not willing to support a certain issue, another is (Interviews 44, 57). For example, many donors were critical of the CEC wanting to employ voting technology in the next election and refused to fund it (Interview 42). However, South Korea will now supply US$ 5 million to this end (Interview 45).

Hence, in both countries, a rather elaborate coordination structure has been put up and coordination works rather well. However, building a coordination structure that includes the respective governments could increase the prospects for a constructive political dialogue between donors and local authorities to jointly work on peace and democracy in the two countries.

Analysing coordination in the critical junctures allows for drawing a more differentiated picture on the effectiveness of coordination on international support to peace and democracy in the two countries.

In Kenya, a clear positive impact of coordination can be seen with regard to international mediation in 2008. International mediation clearly benefitted from a highly coordinated international community (de Zeeuw, 2010; Kanyinga & Walker, 2013; Kaye & Lindenmayer, 2009). Annan was aware of the threat a divided international community could pose to the mediation process, in particular through the phenomenon of mediation shopping. Already before travelling to Kenya, he therefore spoke with various foreign representatives to ensure that he had the international community's full support (Interview 19). It was this undivided support by the international community that gave the mediation team additional leverage in the negotiations to really pressure the two sides to come to an agreement (Interviews 10, 28). Good coordination is hence one factor that explains why mediation was successful (Kaye & Lindenmayer, 2009). When describing donor coordination before, during and after the mediation, Brown speaks of an *"unprecedented level of strategic cooperation"* (Brown, 2009, p. 8).

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110 Interviewees rarely shared their opinions on why this was the case. One speculation was that this was because there is no budget support in Kenya (Interview 18); another was that Kenya is simply not aid-dependent enough to care much about coordination (Interview 20).

111 Of course, this was different in 2010, when a lot of international actors suddenly became active in response to the violence (Interview 44).

However, the high level of coordination in the elections of 2013 had mixed effects. All interviewees agreed that donor support around the elections was well-coordinated (Interviews 2, 4, 6, 7, 8, 9, 17, 27).[112] In fact, coordination in the elections of 2013 was described as being *"remarkable"* (Interview 6) and the *"highlight of the elections 2013"* (Interview 8).[113] Donors massively invested in the elections – according to one interviewee, whereas the elections in 2007 received around US$ 12 million in donor funds, in 2013 it was more than US$ 100 million (Interview 8). Of the many resources provided to support the elections in 2013, many were focussed on the IEBC. The IEBC nevertheless clearly failed to organise and deliver a smooth election process. One could even argue that the massive level of donor support made the use of technology (that later failed or was tampered with) possible in the first place. One main problem was that donors supported the elections, and the IEBC in particular, in a coordinated but unconditional way due to fears of destabilising the situation. Although providing most of their resources through the basket fund ensured a certain level of coherence and avoided duplications, some donors felt support was over-centralised, with a better balance of support being offered to the diverse institutions that are important for elections potentially being more effective (Interviews 2, 17).

The second well-coordinated action of the international community, with regard to the elections in 2013, was the clear stance nearly all of the Western diplomatic missions took in declaring that if the ICC inductees were to win, government contacts would be reduced to *"essential contact only"* (Interview 4). This move has been highly criticised and did not lead to the intended outcome. This once again shows that good coordination alone does not suffice to achieve a positive impact.

In Kyrgyzstan, donors coordinated to varying degrees in the different critical junctures. With regard to the constitution, it seemed that UNDP was responsible for the only large active project, making coordination rather easy. With regard to the elections, coordination worked well, in particular between the OSCE, the EU and UNDP, which also involved INGOs such as IFES, the International Republican Institute and the NDI (Interviews 45, 52, 69).[114] Although donor coordination worked well in the two critical junctures, no strong positive impacts on the effectiveness of support to peace and democracy in Kyrgyzstan could be traced. Nevertheless, good coordination ensured that the negative impacts which bad coordination has had in other contexts, e.g. duplications and the creation of unsustainable structures, could be avoided in these two junctures.

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112 The only indications of bad coordination found during the research were certain duplications. For example, not one but several platforms were created prior to the elections to support SMS reporting of violence. Also, overlaps exist in the work with political parties.

113 Uncoordinated donor support in the elections of 2007 had drawn criticism, which is why many were aware in particular that this issue needed to be tackled (Interviews 7, 8). Therefore, donors coordinated by investing resources in a central basket, which was managed by UNDP (Interview 6). Through the Programme Steering Committee, donors supporting the basket fund and the IEBC representative were able to regularly meet for discussions (Interviews 4, 17). Furthermore, the "elections donor group" coordinated and shared information not only with the donors active in the basket fund but also those supporting other structures, such as IFES.

114 For example, with regard to the upcoming elections, the UNDP formulation mission had several meetings with the OSCE to understand their programmes and thereby avoid duplications (Interview 5).

Many felt that, with regard to the violence, donor support was poorly coordinated (Interviews 55, 57, 61, 63, 64).[115] The main challenge was the high number of actors and the large amount of funds available in the aftermath of the violence (Interview 57). *"There was a huge amount of money ... and everybody was doing what they were thinking was right or whatever would be comfortable for them. And it was not real coordination, I mean in many cases we duplicated each other, but at that time it was really physically not possible to make them coordinate because they were busy with spending money. And they had to spend this money very quickly"* (Interview 61). Several negative effects resulted from poor coordination. Some actors pulled out of certain areas of activity, e.g. youth and mediation, because they felt it was overcrowded (Interviews 47, 61). Between others it led to competition, e.g. not sharing reports or information, but most importantly to duplications (Interviews 55, 61, 63, 64). The negative effects of poor coordination can most directly be felt with regard to mediation. Here, every donor supported his own structure. The OSCE trained "peace ambassadors", UNDP supported "oblast advisory committees" and UN Women "Women Peace Committees" – which were essentially all forms of mediators (Interview 55). One interviewee felt this created an "army of mediators", with clearly negative effects: *"Because of this the understanding of mediation, the concept of mediation was totally undermined in Kyrgyzstan"* (Interview 61). Parallel structures with conflicting concepts of what mediation entails have been created. The negative effects of poor coordination clearly impact the overall effectiveness of donor engagement, mainly because they undermine the sustainability of peace-building efforts.

To summarise, good coordination had a positive impact on the constitution-writing processes in both countries, mediation in Kenya and the elections in Kyrgyzstan. Poor coordination was mainly found with regard to the violence in southern Kyrgyzstan, with clear negative effects. One of the most interesting points is that the elections in Kenya in 2013 serve as an example that very good coordination does not *per se* increase the effectiveness of international support to peace and democracy. Concerted efforts in support of the IEBC and taking a clear stance against Kenyatta and Ruto both failed to have the intended outcome.

## 6    Conclusion

Comparing Kenya and Kyrgyzstan, their political processes in the past 15 years and donor support to them yields several interesting conclusions. The analysis shows that first, donors had a considerably larger impact on the political process in Kenya than in Kyrgyzstan, second, that these two countries have been struggling in particular with state legitimacy and continue to do so and third, that several policy implications can be drawn from the findings of the hypotheses.

It is interesting to see that significant international impacts, both positive and negative, could be traced more often in the peace and democratisation process in Kenya than in Kyrgyzstan. In Kyrgyzstan – both during the constitutional review process and in the parliamentary elections – donors played a secondary, supportive role. Only enabling swift reconstruction constitutes a crucial international contribution. This is largely because the

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115 A sub-group of the Development Partners Coordination Council existed for this issue – the Reconciliation, Conflict Prevention and Peace-Building Working Group.

first two critical junctures were almost entirely driven by local processes and actors. After the revolution, Kyrgyzstan was initially very open to international support, but there was also a lot of local ownership and political will for reforms (Interviews 61, 69). Today the political will to tackle ethnic reconciliation is clearly lacking and the international community has not been able to change this (Interviews 47, 49, 50, 54). In Kenya, in contrast, the international community, through mediation, was able to end post-electoral violence in 2008. During the constitutional review process, funding for the CoE was important for overcoming an obstacle in the democratisation process, as local politicians were trying to undermine the efforts of the CoE.

| Table 7: Comparison of impact of external engagement in critical junctures | | |
|---|---|---|
| | **Crucial international contribution** (if the critical juncture could have been decisively different without international engagement) | **International contribution** (if international engagement is among the factors that explain a component of the critical juncture) |
| **Kyrgyzstan** | | |
| CJ: Ending + overcoming interethnic violence | + Internationally led conflict-sensitive reconstruction | - International investigation into causes of violence refuted as biased <br> - International inaction towards the country's unwillingness to tackle reconciliation |
| **Kenya** | | |
| CJ: Ending post-electoral violence | + Mediation itself a form of international engagement, which ended violence | + Kofi Annan ensures a comprehensive agreement is reached <br> + De-politicisation of negotiated issues through international experts <br> + Pressure by the international community to come to an agreement <br> + International pressure and programmes to support the implementation of the agreement |
| CJ: Constitutional review process | + Funding in support to the CoE | + International experts part of the CoE <br> + Support to ELOG |
| CJ: Elections | | + Support to conflict-reducing measures <br> - Not able to prevent "failure" of the IEBC despite large level of support <br> - Support to peace narrative <br> - International diplomatic pressure against Kenyatta and Ruto fuelled their election campaigns |
| Source: Author's compilation | | |

One reason why the international community's impact was larger in Kenya than in Kyrgyzstan would be that international actors were able to help overcome obstacles in the Kenyan peace and democratisation process, whereas in Kyrgyzstan they were not. The international community was so active in keeping Kenya stable because Western countries had a vested interest. Kenya not only acts as a hub for donors working in the surrounding countries but is also an important economic partner for many (Interviews 46, 18) (Brown, 2009). Because democratic deficits, e.g. the lack of constitutional reforms, were some of the important reasons explaining the outbreak of violence, stabilising Kenya meant supporting democratic developments. In contrast, Kyrgyzstan is simply not a high-priority country for Western donors and governments (Interview 63). Instead, other countries in the region, Russia and China in particular, are considered powerful influencing factors with considerably more leverage on the economic and political developments in the country. If Kyrgyzstan were to degenerate into chaos, this would hardly have a large-scale impact on Western economic interests, which are largely absent (Interview 46).[116] This offers at least one possible explanation as to why the international community was less involved in Kyrgyzstan in the first place and also not as willing to fully support uncomfortable topics such as ethnic reconciliation (Interview 63).

What conclusions can be drawn from the two cases with regard to the issue of legitimacy? Essentially what both countries experienced in 2007 (post-electoral violence in Kenya) and 2010 (revolution and interethnic violence in Kyrgyzstan) were legitimacy crises. In hindsight, unaddressed governance problems at least partially explain these events. In both cases the new constitutions put the countries back on track, at least in the short-term. That the constitutions were both written relatively quickly and smoothly can be explained by the politicians' need to legitimise themselves. Politicians knew that a fresh start would be the only way to hold onto power after the violence in Kenya or the revolution in Kyrgyzstan. Although the continuity of dysfunctional political institutions might have been undercut with the new constitutions, the main actors in Kenya's and Kyrgyzstan's political elites have remained the same. Increasing legitimacy might necessitate not only a drastic transformation of the political institutions, but also of the behaviour and attitudes of larger parts of the governing elites of the two countries. What the cases of Kenya and Kyrgyzstan also show is that a vibrant civil society and regular elections do not automatically lead to legitimacy. Both Kenya and Kyrgyzstan have been holding elections since the 1990s, some of which have resulted in a peaceful transfer of power. However, in both countries, the quality of the elections needs to increase significantly in order for them to be able to transfer legitimacy. Both political systems are struggling with the issues of very weak political parties[117] and persistent corruption. Although important steps have been taken in the past years, several big challenges to create legitimate and stable political regimes in both Kenya and Kyrgyzstan remain. As this study shows, international actors have been able to at least partially contribute to increasing the legitimacy of the two states and should continue to do so.

With regard to policy-making, several recommendations can be deduced from the findings of this study on what makes international support to peace and democracy effective. First, both cooperative and coercive instruments can be effective, but coercion has the potential

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116 Since the closing of the US airbase "Manas", even fewer western interests in the country exist.

117 In fact, the situation with regard to political parties in the two countries is so bad that the German political party foundations, known for their work with political parties, are not active in this area in either country.

to enable developments where cooperation faces limits. At the same time, coercion should be used cautiously, as it is also the riskier strategy – if local support is lacking, coercion can have negative effects. Second, good coordination is essential, as it increases donors' chances to positively impact on peace and democracy in fragile states with low legitimacy. However, good coordination does not guarantee success. Coordination that curtails diversity can harm the effectiveness of democracy support. Third, prioritising stability always has negative short-term consequences for democracy, potentially endangering democratic consolidation and stability in the long run. Prioritisation can make sense in an immediate post-conflict situation, but the risks inherent to this strategy need to be carefully weighed.

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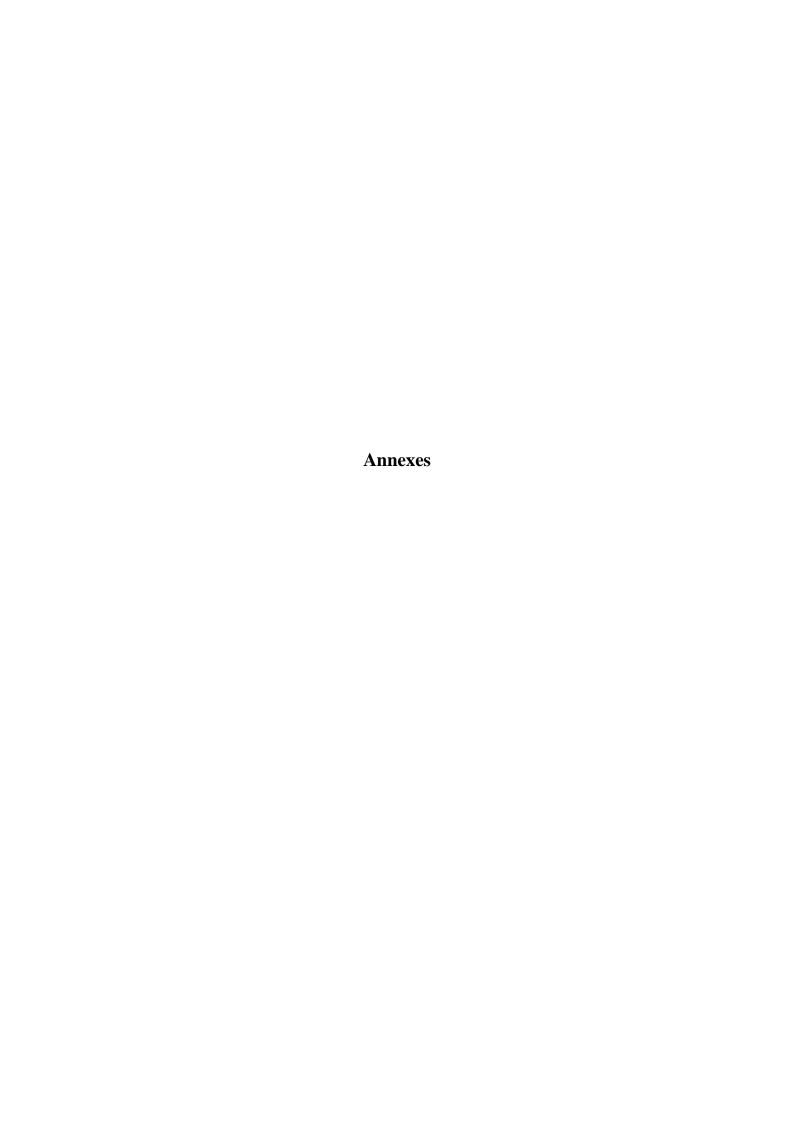
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# Annexes

## Annex 1 – List of interviewees

### 1 Kenya

| ID | Origin | Organisation | Date |
|---|---|---|---|
| 1 | National | INGO | 05.05.14 |
| 2 | National | Bilateral agency | 05.05.14 |
| 3 | International | INGO | 07.05.14 |
| 4 | International | Government | 07.05.14 |
| 5 | International | Bilateral agency | 08.05.14 |
| 6 | National | Multilateral agency | 08.05.14 |
| 7 | National | Bilateral agency | 09.05.14 |
| 8 | International | Bilateral agency | 09.05.14 |
| 9 | National | Bilateral agency | 12.05.14 |
| 10 | National | Academia/Think tank | 13.05.14 |
| 11 | National | Politician | 13.05.14 |
| 12 | International | INGO | 14.05.14 |
| 13 | National | Policy expert | 14.05.14 |
| 14 | National | Civil society | 14.05.14 |
| 15 | National | Academia/Think tank | 15.05.14 |
| 16 | National | Former member of CoE | 16.05.14 |
| 17 | International | Government | 16.05.14 |
| 18 | National | Bilateral agency | 16.05.14 |
| 19 | National | Multilateral agency | 16.05.14 |
| 20 | International | Government | 19.05.14 |
| 21 | National | Civil society | 19.05.14 |
| 22 | International | Policy expert | 19.05.14 |
| 23 | National | Former member of CoE | 20.05.14 |
| 24 | National | Politician | 20.05.14 |
| 25 | National | Civil servant | 21.05.14 |
| 26 | National | Civil society | 21.05.14 |
| 27 | National | INGO | 22.05.14 |
| 28 | National | Academia/Think tank | 22.05.14 |
| 29 | National | Civil society | 23.05.14 |
| 30 | National | Policy expert | 23.05.14 |
| 31 | National | Civil society | 23.05.14 |
| 32 | National | Civil society | 15.05.14 |
| 33 | National | Civil society | 20.05.14 |
| 34 | National | Policy expert | 21.05.14 |
| 35 | National | INGO | 22.05.14 |
| 36 | National | Civil society | 15.05.14 |
| 37 | International | Government | 04.05.14 |
| 38 | International | INGO | 04.05.14 |

## 2 Kyrgyzstan

| ID | Origin | Organisation | Date |
|---|---|---|---|
| 41 | National | Academia/Think tank | 08.09.14 |
| 42 | International | Government | 09.09.14 |
| 43 | National | Multilateral agency | 09.09.14 |
| 44 | International | Government | 10.09.14 |
| 45 | International | Multilateral agency | 10.09.14 |
| 46 | International | INGO | 11.09.14 |
| 47 | International | INGO | 12.09.14 |
| 48 | International | Bilateral agency | 12.09.14 |
| 49 | International | INGO | 15.09.14 |
| 50 | National | INGO | 15.09.14 |
| 51 | National | Academia/Think tank | 16.09.14 |
| 52 | National | Multilateral agency | 16.09.14 |
| 53 | National | Civil Society | 18.09.14 |
| 54 | National | INGO | 18.09.14 |
| 55 | International | Multilateral agency | 18.09.14 |
| 56 | International | Government | 19.09.14 |
| 57 | International | Bilateral agency | 19.09.14 |
| 58 | International | INGO | 19.09.14 |
| 59 | National | Academia/Think tank | 22.09.14 |
| 60 | National | Government | 22.09.14 |
| 61 | National | Multilateral agency | 22.09.14 |
| 62 | National | INGO | 23.09.14 |
| 63 | International | Bilateral agency | 23.09.14 |
| 64 | National | Multilateral agency | 23.09.14 |
| 65 | National | Multilateral agency | 24.09.14 |
| 66 | National | Politician | 24.09.14 |
| 67 | National | Politician | 25.09.14 |
| 68 | National | Multilateral agency | 25.09.14 |
| 69 | International | Multilateral agency | 26.09.14 |
| 70 | National | Civil society | 11.09.14 |
| 71 | National | Civil Society | 16.09.14 |
| 72 | National | Policy Expert | 19.09.14 |
| 73 | National | Civil society | 23.09.14 |
| 74 | National | Journalist | 24.09.14 |
| 75 | National | Academia/Think Tank | 26.09.14 |
| 76 | National | Journalist | 18.09.14 |
| 77 | National | Civil society | 24.09.14 |
| 78 | International | INGO | 10.09.14 |
| 79 | International | INGO | 16.09.14 |
| 80 | International | Bilateral agency | 17.09.14 |

## Annex 2 – Results of online survey on critical junctures

### 1 Kenya (12 respondents)

| | Q1: Do you consider the event a critical juncture? | Q2: Was there considerable external involvement? | Q3: Which 4 critical junctures do you deem most important? |
|---|---|---|---|
| 2004: Ndungu report published | 1 | 3 | 0 |
| 2005: New constitution rejected in a referendum | 5 | 2 | 2 |
| 2006: Anglo-Leasing Scandal + Kroll reports | 1 | 0 | 1 |
| 2007: Presidential elections | 5 | 3 | 2 |
| 2007: Outbreak of post-electoral violence | 6 | 1 | 4 |
| 2008: Power-sharing agreement "National Accord" | 5 | 7 | 4 |
| 2008: Investigations into elections (Kriegler) | 1 | 3 | 0 |
| 2008: Investigations into violence (Waki commission) | 6 | 4 | 2 |
| 2010: New constitution adopted via referendum | 6 | 4 | 7 |
| 2013: Presidential elections | 5 | 5 | 5 |

### 2 Kyrgyzstan (10 respondents)

| | Q1: Do you consider the event a critical juncture? | Q2: Was there considerable external involvement? | Q3: Which 4 critical junctures do you deem most important? |
|---|---|---|---|
| 2007: New constitution via referendum | 4 | 2 | 2 |
| 2007: Parliamentary elections | 2 | 0 | 0 |
| 2009: Presidential elections | 3 | 0 | 0 |
| 2010: March: MGN Asset Management scandal | 0 | 2 | 0 |
| 2010: April: Revolution | 9 | 4 | 8 |
| 2010: May: Clashes between pro-Bakiev forces and Batyrov | 3 | 0 | 1 |
| 2010: June 10th: Outbreak of inter-ethnic violence | 7 | 0 | 5 |
| 2010: June 16th: Ending of inter-ethnic violence | 3 | 1 | 1 |
| 2010: June: New constitution via referendum | 10 | 4 | 6 |
| 2010: October: Parliamentary elections | 8 | 3 | 3 |
| 2011: Investigations into the causes of violence | 2 | 6 | 0 |
| 2011: Presidential elections | 5 | 2 | 1 |

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