

Executive Summary

The purpose of the meeting was to review the strengths and weaknesses of the Kenya National Accord and the implementation status of the agreements reached by the Parties one year earlier. In doing so, the meeting helped to identify ways in which further progress in Kenya could be achieved and drew important lessons that could be applied in conflict situations in Africa and beyond.

While recognizing that some progress had been made, participants acknowledged that the momentum for reform had slowed. Many speakers described the obstacles, such as corruption, the politicization of ethnicity, impunity and inequality, which were impeding progress towards the goals enshrined in the Kenya National Accord.

Despite the pessimistic analysis of the current situation in Kenya, the meeting succeeded in bringing together actors from different sectors of Kenyan society to discuss the key issues and measures needed to move the country forward.

The lessons learned and ways forward which emerged from the two-day meeting are summarized below:

The Mediation Process

The Kenya National Dialogue and Reconciliation (KNDR) process was a positive example of rapid response to a crisis. It represented a “ceasefire” allowing a restoration of calm and an opportunity to address the fundamental problems in Kenya. That space was shrinking and needed to be restored for the implementation to succeed.

There was confidence in the mediation process, yet that mirrored, inversely, the overwhelming lack of confidence in the public institutions in Kenya as a cause of the crisis. The Accord was a platform to begin those reforms, but greater political will was needed to see that through.

The issues of impunity and accountability had not been dealt with as extensively as they could have been during the mediation, and that remained the key underlying issue constraining the implementation of the agreements today.

A key achievement of the mediation process had been the combination of domestic support and pressure, lending credibility to the international and regional pressures to resolve the crisis. While Kenyan political leadership was essential for implementation, the engagement of the international community – in partnership with Kenyans – needed to be welcomed and the goodwill and focus from the mediation process had to be reinvigorated.

The level and intensity of the violence had not been anticipated. That was a key lesson: Kenya needed to recognize and address the underlying tensions that remained in order to ensure longer-term peace and stability. Investing in national conflict resolution capabilities would be prudent.

The Coalition Government provided an opportunity to achieve much-needed institutional reforms in the country. However, many people had the feeling that the Coalition had become an end in itself. Caution needed to be exercised when looking at Kenya as an example of a power-sharing model.

Implementation of the KNDR Agreements

Progress had been made in the implementation of the four agenda items over the last year. Those gains were in danger of reversal, however, and there was an urgent need for vigilance by the Kenyan people. In going forward, the focus should be on actual results. All efforts should be judged by their implementation and the reality on the ground.

Urgent steps needed to be taken to regenerate a sense of common national purpose. Regrettably, the Coalition Government was perceived as neither implementing reforms nor prioritizing Kenyans' basic needs, such as job creation, poverty reduction and healthcare provision.

One of Kenya's greatest assets is the richness of civil society. Civil society in its broadest and most inclusive sense can and must create the momentum to restore a sense of common national purpose.

The international community can continue to play an important, if limited, supporting role. The African Union (AU) intervention led by former United Nations Secretary-General Kofi Annan had undoubtedly saved many lives and created a breathing space for political progress. Notwithstanding this, the primary responsibility for achieving progress had to lie with Kenyans.

The deteriorating economic situation and growing cynicism regarding the motives of the ruling class made the need for a sustained multi-stakeholder dialogue on the future of Kenya all the more urgent. The constitutional reform process can provide the basis for multi-stakeholder engagement, but such an exercise will not work if the political class continued to undermine respect for existing constitutional provisions, respect for human rights and the rule of law.

An immediate imperative had to be to address the security situation – security sector reform, police reform and the culture of impunity. Failure to take decisive action in that respect would undermine the credibility of all other reform efforts and the search for peace.

Another priority was root-and-branch reform of the electoral system. The reputation, capacity, integrity and competence of the electoral management body in Kenya had to be restored. Otherwise, the next elections in 2012 would be the occasion for renewed violence and ethnic discord rather than a means to legitimize authority.

It was not too late for Kenya's political leadership to lead. Statesmanlike determination to work together to support, if not initiate, actions to implement the recommendations

of the Waki and Kriegler Commissions and some of the ideas emerging from that consultation could have a dramatic, positive effect. But at a time when there is growing skepticism about the behaviour and motives of the ruling elite, the window of opportunity was closing.

There was a need to move beyond criticism and blame games. Every element of Kenyan society had a role to play in moving the country forward and Kenyans should take individual responsibility to contribute to that process. The Kenyan Parliament was a decisive factor in the implementation of all ongoing reforms. As such, parliamentarians had a special responsibility and should engage with and mobilize the Kenyan people and find ways to ensure their participation in the reform process.

Looking ahead, the focus should not be restricted to past issues. A strategy needed to be developed to look at emerging issues which retained the capacity to trigger an even greater crisis.

Lessons Learned

The early and timely intervention of the African Union, and particularly President Kufuor, in mandating the Panel of Eminent African Personalities to mediate the crisis, had been a very positive development. The intervention of his successor, President Jakaya Kikwete of Tanzania, at a decisive moment in the negotiations, had also been critical. The Kenyan crisis provided an eloquent example of how the African Union can have a comparative advantage in such mediation processes if it remained proactive.

The strong and united support of the international community and the effective coordination between stakeholders had also been important. By speaking out with one voice and placing its confidence, trust and political will at the service of the Panel's mediation efforts, the international community had been able to maximize its leverage over the parties. The close collaboration between the African Union, the United Nations and other organizations had also facilitated the rapid establishment of an impartial and fully functioning Secretariat to support the Panel and service a single mediation process.

The significant role of Parliament as the legislative arm of Government should not be overlooked. Unless MPs bought into the reforms, it would be difficult, if not impossible, to enact the necessary legislation and move forward with the reform agenda.

The active role of civil society had been invaluable to the process, as its analyses and strategies had placed great pressure on the parties to reach an agreement. The lesson there was that while it might not be possible for civil society to be a party at the actual negotiating table, it was nevertheless important for mediators to involve it in some way and ensure that civil society remained a strong ally. The engagement of stakeholders during the implementation phase was equally crucial.

The dangers of ethnic affiliation in politics can create enormous problems. The Kenyan crisis had revealed how quickly close friends and neighbours turned against one another and fell victim to the instinctive tribalism hidden much deeper within them. That underscored the urgent need to take measures to promote national healing and reconciliation. The establishment of the Truth, Justice and Reconciliation Commission (TJRC) and the promulgation of the National Cohesion and Integration Act will, hopefully, contribute to that process.

Transparency had been another crucial factor in the negotiations. It was an important strategy to gain the trust and continued support of civil society and the international community.

It was evident from the Kenyan crisis that, although the flawed elections had been the immediate cause of the violence, there were long-term political, social and economic issues such as constitutional and institutional reform, land reform, and youth unemployment and regional imbalances that needed to be addressed urgently. Unless the package of reforms was implemented, it was feared that Kenya might witness violence on a larger scale in later years. The lesson learned was that a conflict could not really be solved without dealing with its root causes; any agreement reached would otherwise be a mere palliative or at best seen as a ceasefire.

Finally, reform is a process, not an event. It is a long-term process that will go beyond the life of the Coalition Government. It was difficult for any government to maintain the momentum at a higher level for long-term reforms. There was therefore a need to continue to exert pressure on political leadership to expedite the pace of reforms with a greater sense of urgency while also managing public expectations and promoting patience.