



Kofi Annan
FOUNDATION

AFRICAN UNION



PANEL of EMINENT
AFRICAN PERSONALITIES

THE KENYA NATIONAL DIALOGUE AND RECONCILIATION: TWO YEARS ON, WHERE ARE WE?

Nairobi, 2-3 December 2010

Report of
The Meeting

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Introduction

The Kofi Annan Foundation and the African Union Panel of Eminent African Personalities convened a meeting on The Kenya National Dialogue and Reconciliation: Two Years On, Where Are We? at the Crowne Plaza hotel in Nairobi, Kenya from 2 to 3 December 2010.

The purpose of the meeting was to take stock of the progress made in the implementation of the Kenya National Dialogue and Reconciliation agreements and the recently promulgated Constitution of Kenya and to build momentum for the achievement of the reform agenda.

The meeting was attended by 285 participants. It brought together key stakeholders from the Government, civil society organisations, religious leaders, the business community, the media and representatives from the international community who had been supporting the Kenya National Dialogue and Reconciliation process.

The speakers and panellists included prominent personalities in Government, civil society, the international community and the media, which enriched the panel discussions. The meetings of the panels were held under the Chatham House Rule. The opening and closing sessions were open to the press and broadcast live in Kenya.

The Kofi Annan Foundation acknowledges with thanks the support for the meeting given by the Governments of the following countries: Germany, Norway, Switzerland and the United Kingdom.

Agenda

Kenya National Dialogue And Reconciliation Two Years On: Where Are We?

Thursday 2 December 2010

9.30 - 10.30:

Opening session (open to the press)

Welcoming remarks by

Kofi Annan, Chair of the Kofi Annan Foundation and
the African Union, Panel of Eminent African Personalities
Raila Odinga, Prime Minister of the Republic of Kenya

10.30 - 12.45:

Panel One (closed meeting)

Theme:

**Strengthening institutions for the implementation of the
Constitution and achievement of other reform goals:**
cohesion and coherence within the Coalition Government;
Parliament; civil service; devolution to county administrations;
electoral, police, judicial and land reforms; political parties;
civic education

Moderator:

Julie Gichuru, TV Host, Group Business General Manager,
Royal Media Services

Panellists:

James Orengo, Minister for Lands

Abdikadir Hussein Mohamed, Chair of Constitutional
Implementation Oversight Committee

Ahmed Issack Hassan, Chair of the Interim
Independent Electoral Commission

Atsango Chesoni, Vice Chair, former Committee
of Experts on Constitutional Review

12.45 - 13.15 **Guest Speaker:**

Luis Moreno-Ocampo, Prosecutor of the
International Criminal Court

15.00 - 17.30:

Panel Two (closed meeting)

Theme:

**Enhancing and ensuring democratic space, rule of law
and protection of the citizenry:** human rights; freedom of
expression, assembly and information and other civil liberties;
judicial reform; impunity; law enforcement; demobilization
and disarmament of militias

Keynote Speaker:

Kenneth Marende, Speaker of the Kenya National Assembly

Moderator:

Muthoni Wanyeki, Executive Director, the Kenya Human
Rights Commission

Panellists:

Francis T. Kimemia, Permanent Secretary, Ministry of State
for Provincial Administration and Internal Security

Ababu Namwamba, Chair, Parliamentary Committee on
Legal Affairs and Administration

Kathurima M'Inoti, Chair, Kenya Law Reform Commission

John Githongo, Chair, Inuka Kenya Trust

Hassan Omar Hassan, Commissioner, Kenya National
Commission on Human Rights

Friday 3 December 2010

9.00 - 11.00:

Panel Three (closed meeting)

Theme:

Promoting national cohesion and reconciliation: resettlement and reintegration of IDPs; healing and peaceful co-existence at grassroots level; national and social cohesion and integration; youth unemployment; regional imbalances and inequity; civic education

Keynote speaker:

Kalonzo Musyoka, Vice President of the Republic of Kenya

Moderator:

Richard Leakey, former Head of Civil Service

Panellists:

Joseph Nyagah, Minister for Cooperative Development and Marketing

Mzalendo Kibunjia, Chair, National Cohesion and Integration Commission (NCIC)

Ngunjiri Wambugu, Executive Director, Change Associates Trust

Abdullahi Abdi, Chair, National Governing Council, NEPAD-APRM, Kenya

Margaret Shava, Commissioner, Truth, Justice and Reconciliation Commission

11.20 - 13.00:

Panel Four (closed meeting)

Theme:

Roles and responsibilities of the media in the monitoring and implementation of the Constitution and the reform agenda: constitutional safeguards; role of the media in a democratic society; control of the media; media and civil society organisations

Keynote speaker:

Linus Gitahi, Chief Executive Officer, Nation Media Group

Moderator:

Beatrice Marshall, Senior News Anchor, Kenya Television Network

Panellists:

Samuel Poghisio, Minister for Information and Communications

Martin King'asia, Chief Radio Producer, Kenya Broadcasting Corporation

Paul Melly, Deputy Chair and Chief Strategist, Standard Group
William Pike, Chief Executive Officer, Nairobi Star and Director, Radio Africa

Louis Otieno, Senior News Editor, K24 TV

14.45 - 16.30:

General Session: Way Forward for Kenya (closed meeting)

Theme:

In view of the preceding panel discussions, the plenary will address, in a broader context, the way forward for Kenya: new governance structures provided by the Constitution; what remains to be done; avoiding a future crisis such as the one that occurred in 2007/2008

Moderator:

Mugo Kibati, Director-General, Vision 2030

Panellists:

Musalia Mudavadi, Deputy Prime Minister of the Republic of Kenya and Minister for Local Government

Mutula Kilonzo, Minister for Justice, National Cohesion and Constitutional Affairs

Martha Karua, Gichugu Member of Parliament

Patrick Obath, Chair, Kenya Private Sector Alliance

Reverend Timothy Njoya, Minister, Presbyterian Church of East Africa

George Kegoro, Executive Director, International Commission of Jurists-Kenya

17.00:

Closing session (open to the press)

Closing remarks by Kofi Annan

Executive Summary

The meeting was convened to take stock of the progress made in the implementation of Agenda 4 of the Kenya National Dialogue and Reconciliation agreements by assessing the progress that had been made. Through frank and open discussion participants assessed whether the new governance structures were strong enough to prevent a recurrence of the 2007/8 post-election violence and examined ways to energize the momentum of the reform agenda. A similar meeting had taken place nineteen months earlier. In the interim period one major milestone had been achieved, the promulgation of a new Constitution of Kenya in August 2010. It had created the democratic space for realizing Vision 2030, Kenya's aspiration to becoming a middle-income country within the next 20 years.

The constitutional referendum, conducted with fairness, integrity and transparency, was a litmus test that began to restore the public's confidence in Kenya's new electoral institutions. The real test would come at the next general elections, to be held in 2012. However, it was essential that the reforms outlined in the KNDR process were implemented, with a view to avoiding the recurrence of the violence that erupted in the aftermath of the 2007 elections. The Constitution would play a key role in creating an environment that allowed for a stable and prosperous Kenya.

The National Accord committed Kenyans to implementing reform in governance institutions such as the Executive, Parliament, the police force, the judiciary, the civil service and the provincial administration. The Kenyans who were permanently uprooted from their homes during the post-election violence should be resettled as a matter of urgency.

Land reform and the establishment of a Truth, Justice and Reconciliation Commission were also part of the Accord's agenda.

To achieve this, the Government should remain true to the spirit and values of the new Constitution by transcending narrow self-interest in the form of corruption and ethnicity to create a cohesive nation that is united in its desire to put behind it the violence and balkanization of political ambitions that overshadowed the previous elections. The new Constitution's Chapter 6 on Leadership and Integrity provides clear guidance on how to build the culture of transparency and accountability that is a prerequisite to achieving this goal. It is equally important to nurture cohesion and cooperation within the Coalition Government.

There are many actors who are key to achieving the national healing and reconciliation that is needed to ensure the post-election violence is never repeated. They include politicians, members of the public service, civil society, the media, the business community, youth, international partners but, above all, every single Kenyan citizen.

There had been positive advances led by the promulgation of the new Constitution. The constitutional referendum and by-elections, conducted under the auspices of the Interim Independent Electoral Commission, were important steps in restoring confidence in the electoral process. Parliamentary reform would separate the Executive from the legislative arm of Government. Many, but far from all, of the IDPs had been resettled. Despite personnel problems and significant underfunding, the Truth, Justice and Reconciliation Commission had constituted a secretariat with six directors and 71 staff members. About 10,000 statements had been recorded. Hearings would begin in February 2011 and the findings and recommendations would be submitted in August 2011. A new land policy had begun to consolidate and rationalize land legislation. The National Cohesion and Integration Commission had begun to have an impact although its work needed to be linked to the efforts of grassroots organisations.

Against this background, many participants voiced concern about the inconsistent pace of reform and queried whether

the political will existed among some of the leadership to implement the items listed under Agenda 4 of the Kenya National Dialogue and Reconciliation process. Particular concern was expressed over Parliament's failure to constitute the Commissions on the Implementation of the Constitution and Revenue Allocation and to approve nominations to the Judicial Service Commission by 27 November 2010 in accordance with the implementation schedule for the articles of the Constitution. Civil service reform was also behind schedule with much of the constitutionally required reform yet to take place.

The vetting of nominees standing for public office was a new procedure for MPs. Parliament was developing guidelines to ensure accountability and integrity in this procedure. The Judicial Service Commission was dealing with the Vetting of Judges and Magistrates Bill (2010) and the Judicial Service Bill (2010), two initial steps that maintained the momentum in a major transformation of the judiciary.

Devolution of the government to counties was a key driver of reform. Kenyans viewed devolution as the mechanism that would safeguard their rights and guarantee service delivery. Yet the complicated process for its implementation was not clearly understood. The Deputy Prime Minister and Minister for Local Government had established a taskforce on devolution but pointed out that the funding for its work had not been secured, putting the timetable for the delivery of the taskforce's interim report by March 2011 in jeopardy. Some participants warned that county government could fuel corruption and ethnic tension.

Among the issues that participants said needed to be tackled decisively were 'negative ethnicity', a lack of national cohesion, endemic corruption, unemployed youth and regional imbalances and inequities. Another critical issue that surfaced was a perceived reluctance to banish impunity as a means to effecting justice and reconciliation. It was felt that Kenyans were now relying on ICC Chief Prosecutor Luis Moreno-Ocampo to do this for them. It was felt that the victims of the election violence should be assisted now rather than waiting until the ICC trials had been concluded.

There was general concern that tension between reformers and anti-reformers – the visionaries and those who cling to the status quo – was slowing down the pace of reform, especially with regard to strengthening State institutions and the devolution of power and resources to the counties. This begged the question as to whether reform could be achieved, despite a strong constitutional framework, if the leadership was found wanting. It was also queried whether Kenya's national values were being reflected in Parliament.

Parliament had made considerable progress in its reform agenda. Following the passing of the National Accord and Reconciliation Act (2008) and the Constitution of Kenya (Amendment) Act (2008), it had enacted legislation on rule of law, the protection of citizens' rights, the ending of impunity, and the consolidation of national cohesion. In September 2009 the National Land Policy was adopted to facilitate land reform.

Post-election legislation included:

1. The Proceeds of Crime and Anti-Money Laundering Act
2. The International Crimes Act
3. The National Cohesion and Integration Act
4. The Truth, Justice and Reconciliation Act

There were other obligations that Parliament was required to meet within a relatively short timeframe. The Constitutional Implementation Oversight Committee had already been constituted, but other reforms had not yet been implemented. Legislation on judicial reform had to be enacted to instil confidence in the reform process and pave the way for devolution and reform in other sectors. The establishment of the Supreme Court was critical to the review process so that it could act as a court of last resort for disagreements on constitutional implementation.

The immediate requirements for implementation of the Constitution that had not been carried out were:

1. The appointment and/or approval of the chair and/or members of the following Commissions:
 - a) Commission on the Implementation of the Constitution
 - b) Judicial Service Commission
 - c) Commission on Revenue Allocation
 - d) Independent Electoral and Boundaries Commission
 - e) Salaries and Remuneration Commission
2. Approval of the nominations for Chief Justice and Deputy Chief Justice as the current Chief Justice had to vacate office within six months of the promulgation of the Constitution
3. Enactment of the Vetting of Judges and Magistrates Bill (2010) as the Constitution provided for the vetting of all judges and magistrates to establish their suitability for office
4. Approval of the nominations for Attorney-General and Auditor-General as the current officeholders had to vacate within eight months of the promulgation of the Constitution

It was noted that Kenyans had a history of allowing reform processes to be captured by anti-reform forces. With this in mind, participants repeatedly stressed the importance of enacting legislation that maintained the momentum of reform.

Opening Session

Address by Mr Kofi Annan, Chair of the Kofi Annan Foundation and the African Union Panel of Eminent African Personalities.

Right Honourable Prime Minister, Excellencies, Ladies and Gentlemen, it is a privilege for me to welcome you all to this important meeting which is being followed closely right across Kenya and the wider region.

We meet two years after the historic and courageous agreement to end Kenya's grave political crisis. The National Accord committed Kenya to an ambitious reform programme to secure lasting peace, stability, and justice through the rule of law and respect for human rights.

These are goals which are as important to Kenya's future and to its citizens as they were two years ago. So the aim of this meeting is, through frank and open discussion, to examine the progress made, to identify the challenges that remain, and to find ways to re-energise the reform agenda.

It is Kenya and its citizens who, of course, must control their own future. But what happens here has an impact well beyond Kenya's borders. The entire region felt the shockwaves of Kenya's political crisis two years ago.

A stable and successful Kenya, in contrast, will help you and your neighbours prosper. So there is huge interest, support and good will in the region - and the wider international community - for Kenya's revitalization through the comprehensive implementation of Agenda 4.

Ladies and gentlemen, the world has looked with admiration at the progress made so far. Kenya brought a halt to conflict and violence. A new Constitution, containing a progressive Bill of Rights and devolved governance structure, was drawn up with broad consultation, and overwhelmingly supported by its citizens. Kenyans can take great pride in this achievement.

Ordinary citizens, the Executive, Parliament, civil society, religious leaders, the media, and the business community - with the support of international partners - all came together to deliver the best for this country.

Agreement on the new Constitution was an essential first step to put this country on the road to the new future Kenyans so desperately seek. But it is not, of course, enough on its own.

The Constitution is the beginning, not the end. The challenge now lies in its implementation. Its ideals and ambitions must be put into practice. We all appreciate the complexity of the task before you. However, the expectations of Kenyans are high.

They want to see transparent and accountable decision-making; to feel the impact of reform in their daily lives; and for the national good to be put before narrow self-interest.

The unity of purpose at the top has been a major factor in progress so far. Let me once again pay tribute to President Mwai Kibaki and Prime Minister Raila Odinga for setting the right tone and their commitment to working together.

There is an urgent need to see this spirit of co-operation continue and expanded across the Coalition Government and Parliament to consolidate the gains of the new Constitution and to accelerate the broader reform agenda. Parliament has a special responsibility in this regard.

Your oversight role is critical, but must not outweigh your responsibility to keep the process on track and moving forward as a cohesive whole.

The tenth Parliament has the chance to earn its place in history, by not only delivering a new Constitution, but making it work for the good of the entire country.

Kenyans have made clear that there are areas where progress has been slow or disappointing. And we shall hear

more about this, and ways to overcome these challenges, over the next two days.

While steps have been taken to address the root causes of the post-election violence, too little has been done to bring the perpetrators to justice. Impunity is a major problem yet to be fully addressed. Ladies and Gentleman, I would like to emphasise that impunity is not a Kenyan problem alone.

When I travel throughout our continent, I meet Africans from all walks of life who demand justice: from their own courts if possible, from international courts if no credible alternative exists. The International Criminal Court (ICC) does not supplant the authority of national courts. Rather, it is a court of last resort, governed by the principles of complementarity.

We shall hear from the Prosecutor, Mr Moreno-Ocampo, later this morning - but let me stress that bringing to justice those responsible for the post-election violence is essential to help Kenya heal its wounds, and prevent such crimes from being committed again. In doing so, we must understand that no single community or group is being targeted. It's about bringing individuals to account for crimes they have committed and ensuring that victims receive justice.

The Government must do more to ensure that witnesses and their families are protected and that human rights defenders are not subject to intimidation. Reconciliation also requires a society to face up more widely to the violations and misdeeds of the past. Only then can all Kenyans feel that their rights will be respected in the future.

The Truth, Justice and Reconciliation Commission (TJRC) and the National Cohesion and Integration Commission (NCIC) have an important role to play here. The NCIC's work has begun to have an impact. But its work must be further enhanced and linked to the efforts of grassroots organisations. We must also see its mandate reaffirmed following the passage of the new Constitution.

Kenya's diverse ethnic communities also have an important role in helping foster reconciliation and prevent the escalation of tensions.

The country's Muslim community has already shown maturity and responsibility in the run-up to the referendum.

Their determination to avoid provocation and reduce tensions over the issue of Kadhi's Courts avoided a religious dimension being added to an ethnically-charged debate. What an excellent example!

With a more systematic approach to reconciliation, it will also be easier to find a durable solution to the continuing challenges faced by Internally Displaced Persons (IDPs).

The inability of so many people to return safely to their homes is not just a human tragedy. Until a fair and lasting solution is found, there is always a danger that their plight will be used to stoke divisions and conflict.

Ladies and Gentleman, right at the top of the agenda for reform are demands to tackle corruption. It is a fight, like that against impunity, which must not be politicized nor ethnicised. But nor can it be avoided.

Corruption is a scourge that the Government and all of society must deal with comprehensively, and on a sustained basis at every level.

Chapter 6 of the new Constitution, on Leadership and Integrity, provides clear guidance on building a culture of transparency and accountability in public institutions. All branches of Government and the public must remain vigilant to ensure they are followed so the cancer of corruption is rooted out.

Indeed, if the Constitution is to play its full role in providing the foundation for a new Kenya, it is vital that it is fully and widely understood. A comprehensive civic education programme will help foster this understanding, and build support for the difficult decisions that have to be made.

Electoral reforms are similarly important. These should begin in earnest. The successful conduct of the referendum has begun the process of restoring people's confidence in Kenya's new electoral institutions. But the true test will come at the next General Elections. Work needs to begin immediately to ensure electoral institutions and systems are ready.

At the same time, we need to see greater coherence and cohesion within the Coalition. The two leaders have set an example by consulting regularly and jointly setting out policy

on important national issues. In the remaining period before the elections, this must be continued and extended across the entire government. It is important that the members of the Coalition Government resolve their differences systematically, and prevent the spillover of disputes into the public domain.

Ladies and Gentleman, I hope at this conference we can identify the priorities to speed up progress to achieve the goals of the National Accord and fulfil the aspirations of millions of Kenyans. But some of the answers are already clear:

First, the Government must remain faithful, as I know it recognizes, to the values and spirit of the new Constitution.

Second, all Kenyans must be involved in turning its principles into practical policies.

Third, Kenya's political leaders must place the national interest above narrow sectional or self-interest.

Fourth, all civil society actors, including the business community and the mainstream and vernacular media, must continue to play their indispensable role in ensuring Kenya's renewal.

Finally, there must be sustained support and engagement by international partners for the reform process.

I believe Kenya has a historic opportunity to transform this new beginning into real progress that can deliver long-term stability and prosperity for all. This opportunity must not be wasted. The campaigns for the next General Election will make progress much harder. So the next few months are critical.

I urge all Kenyans to remain committed and focused on what is at stake – the realization of a new Kenya, grounded in a new progressive Constitution, in the values of a new independent Republic, individual dignity, and the rule of law.

The momentum for reform must not be allowed to slow.

Good intentions must be turned into tangible progress in the everyday lives of Kenya's citizens. The people of this great country expect the discussions over the next two days to be both frank and focused.

I know you will not disappoint them.

**Address by Rt Hon Raila Odinga,
Prime Minister of the Republic of Kenya**

Mr Odinga thanked the Kofi Annan Foundation for making it possible for Kenyans and their friends to meet. He gave apologies on behalf of President Mwai Kibaki who was unable to attend due to an East African Heads of State Summit being held in Arusha on the same day.

He reassured those present that the environment was conducive to stability and prosperity to take hold in Kenya. He recalled that at the time of signing the National Accord on 28 February 2008, more than 1,500 Kenyans had died in post-election fighting. Another 600,000 had been displaced from their homes. The economy had ground to a halt. Thanks to the effort of Kenyans with the assistance of their international partners under the leadership of the African Union, the Panel of Eminent African Personalities and, particularly, Mr Kofi Annan, the country had pulled itself back from the brink of collapse.

It was not easy to reconcile a nation that had been torn apart. This was the first coalition of its kind in Africa. It suffered from mistakes and standoffs, but a way was found to relate to each other at the top. The experiment had worked much better than the power-sharing agreement in Zimbabwe, thanks to President Kibaki. Mr Odinga cautioned that political leaders should think of themselves as Kenyans rather than representatives of ethnic groups. The way forward was through political parties and their ideologies rather than resorting to negative ethnicity rooted in ethnic alliances.

Mr Odinga reminded those present that the National Accord committed Kenyans and their government to certain actions:

1. Stop the violence and the unnecessary loss of life
2. Restore peace and stability
3. Promote national healing and reconciliation
4. Resettle those who had been displaced from their homes
5. Establish an Independent Review Commission on the 2007 General Elections
6. Establish a Commission of Inquiry into Post-Election Violence
7. Establish the Truth, Justice and Reconciliation Commission to address historical injustices and human rights abuses
8. Initiate land reform
9. Reform governance institutions such as the police force, the judiciary, the civil service and the provincial administration
10. Reform the electoral system
11. Promulgate a new constitution

The government was fully committed to ensuring that the violence that occurred after the 2007 elections would not recur. Instead, these events would be a permanent reminder that peace and stability could not be taken for granted. In the first year after the signing of the Accord, the Kriegler and Waki Commissions delivered reports which detailed recommendations for electoral, judicial and police reform. These reforms were now being undertaken. He noted that recent by-elections conducted by the Interim Independent Electoral Commission demonstrated renewed confidence in leadership change through fair and transparent elections. The intention was to continue to implement this democratic process during the 2012 elections and beyond.

Mr Odinga reviewed progress on implementing the National Accord. On 27 August a new constitution was promulgated following a referendum earlier that month where about 68 per cent of the Kenyans who had voted cast ballots in its

favour. The Constitution encapsulated the nation's vision and aspirations and gave shape to national strategies. Properly implemented, it would guide Kenya through a transformation from the ravages of tribal tensions to a nation where citizens enjoyed unity and harmony.

Chapter 6 of the Constitution detailed clearly the obligations for integrity among national leaders and state officers. The implementation of this chapter, in particular, would significantly enhance transparency and accountability in the conduct of national affairs and bolster the fight against corruption, excesses of power and the abuse of human rights.

He said an overwhelming number of IDPs had shelter, food and security although a tiny number had yet to be resettled. While most people enjoyed security, there were isolated reports of renewed threats of violence. The TJRC was experiencing challenges but Kenyans and their government were committed to making it succeed. A new land policy had been entrenched in the Constitution. The National Cohesion and Reconciliation Commission had introduced institutional mechanisms to foster national unity.

He noted that one of the most important items under Agenda 4 of the Accord was judicial reform. A Judicial Service Commission was being constituted. The next step would be to constitute a Supreme Court. This would be followed by the vetting of judges and magistrates, a process that should take no more than a year to complete.

He expected a taskforce on police reform to lead to the formation of a civilian-led police force with independent oversight. Parliamentary reform was nearly finished. Never again would Parliament be used as a rubber stamp for the Executive as had been the case in the past. However, civil service reform was behind schedule. Performance contracts had been introduced, but other constitutionally based reform had not been implemented. He noted that the formation of the Commission on the Implementation of the Constitution would enable Parliament to enact legislation to facilitate this important reform initiative.

Panel One Implementation of the Constitution and the Reform Agenda

Panel One examined whether or not State institutions had been sufficiently strengthened to comply with the schedule of Constitutional reform. It also looked at progress on other reform goals such as cohesion and coherence in the Coalition Government, Parliament and the Civil Service; electoral, judicial and land reforms; and political parties.

The moderator recalled that during the post-election violence families were separated, friends fought and people died. The purpose of the meeting was to ensure that Kenyans did not return to that place.

The first panellist gave an overview of the activities of the Interim Independent Electoral Commission. The Commission had to rebuild confidence in the electoral process at a time when Kenyans felt ashamed and embarrassed by what they had done to themselves. The Commission's task was to disband the Electoral Commission of Kenya and establish a new secretariat within the existing legal framework. All positions of employment were advertised to demonstrate that the entire

electoral process would be professional and transparent. Commission members visited Ghana, India and South Africa to learn best practices. An electronic voter registration exercise provided the input for a credible voter register. The by-elections conducted by the Commission helped to restore Kenyans' confidence in the electoral process. The Commission also conducted the constitutional referendum.

The second panellist talked about progress made in land reform. There were numerous land laws which were inconsistent and which needed to be consolidated. There was a group of stakeholders that was not satisfied with the pace of reform. However, the government needed to move carefully or the situation would revert to how it was before, particularly for those who had benefited at independence or before. Land owners who resisted change should be persuaded of the benefits of reform.

Judicial reform and bold leadership that was not held hostage to old men and corruption was critical to maintaining the momentum of reform. Otherwise state institutions would continue to operate in the old way with Parliament and the Executive politicizing the judicial system by fighting their battles in court. If Kenyans were not able to deal with impunity, transforming Kenya into a different society would be very difficult.

The third panellist remarked that Kenya had a history of allowing reform processes to be captured by anti-reform forces and cited examples of this happening in the period following the post-election violence. After the draft Constitution left the Attorney-General's office, changes were made to the draft at the Government Printers. The drafting of legislation had not been a consultative process involving the public. The panellist referred to Article 249 of the Constitution (which stated that Commissions were subject only to the Constitution and the law and that they were funded separately from ministerial budgets) and expressed the hope that the Commissions would be allowed to operate independently under the guidance of competent people. Even though a framework was in place, the procedure for constituting and operating the Commissions needed improvement. The Executive tended to propose nominees for the Commissions on the penultimate day of the

prescribed 90-day period. It was not certain the best people were chosen for the job as the positions were published in the gazette rather than being advertised so that they could reach a wider audience.

The fourth panellist said that the reform process was proving to be very consultative with civil society driving the agenda. In his opinion, reform was more advanced in Parliament than in other State institutions. The Executive was in constant touch with Parliament, but some members of both institutions were still living in the past and operated with insufficient transparency. The Executive vetted and selected people for key posts (such as members of Commissions) while Parliament approved nominees without interviewing them. Government was moving into a new paradigm but at the moment Kenyans were still dealing with the same old institutions.

Panel One prompted a range of comments and perspectives from the floor pertaining to cohesion and coordination in State institutions, Parliament and the Executive within the context of constitutional reform. Many participants voiced concern about the inconsistent pace of reform and queried whether the political will existed among some of the leadership to implement the items listed under Agenda 4 of the Kenya National Dialogue and Reconciliation process. Particular concern was expressed over Parliament's failure to constitute the Commissions on the Implementation of the Constitution and Revenue Allocation and to approve nominations to the Judicial Service Commission by 27 November 2010 in accordance with the implementation schedule for the articles of the Constitution. It was believed that MPs who blocked the approval of nominees were manoeuvring for political leverage.

There was concern from the floor that this implementation impasse could lead to the dissolution of Parliament which would have fundamental implications for the Coalition Government and could lead to another round of civil violence. One participant said that Parliament's Constitutional Implementation Oversight Committee should have reminded the Executive that time was running out. Another participant observed that Kenyans had been denied their right to vet those who had applied to become commission members. He also noted that the Independent Electoral and Boundaries

Commission could not be constituted to take over the work of the Interim Independent Electoral Commission until MPs agreed on the demarcation of the 80 new constituencies. The media had reported that the PNU and ODM factions of the Coalition were discussing political settlement. 'I don't understand why we are doing horse trading for political settlement on an issue that citizens and the Constitution were clear about,' said one speaker from the floor.

The moderator noted that as political parties took on the responsibility of appointing Commission members without advertising for the positions, parties should ensure they were vibrant and credible and that they were not driven by ideology.

A panellist commended the Executive for establishing a Public Service Commission then suggested that statutes were introduced listing the competencies required for State positions. Some of the panellists agreed that controversy over conflicting political viewpoints had caused major setbacks in the past few weeks. There was general concern that tension between reformers and anti-reformers – the visionaries and those who cling to the status quo – was slowing down the pace of reform, especially with regard to strengthening State institutions and the devolution of power and resources to the counties. As one participant described it, 'A new constitution and new tools are being handed over to the same set of people. These are the same people who led us through the violence of 2008, and we are still hoping for change.'

This begged the question as to whether reform could be effected, despite a strong constitutional framework, if the leadership was found wanting. One of the panellists queried whether Kenya's national values were being reflected in Parliament. In his opinion, Kenyans had failed to vote in reformers and until they did, there would not be change. A participant from the floor stated that in every election Kenyans voted out about 65 per cent of the non-reformists. Another panellist observed that the five-year transition period between general elections was necessary to put in place electoral reform and other supporting legislation.

Another panellist pointed out that while the legal framework was in place for conducting free and fair elections, whether or

not this was achieved hinged on the integrity of the process and those who managed it. The referendum was successful because the system for collecting and collating the ballots and publishing the results was transparent. 'If we can have that integrity of people and process, we'll be okay.'

Among the issues that participants said needed to be tackled decisively were 'negative ethnicity' and national cohesion. The political elite used a national lexicon during the working week and reverted to ethnic propaganda when they travelled home on the weekend. Initiatives to bring communities together and understand each other could be demolished overnight by a politician's ethnically biased speech, especially in areas where media coverage was low. The challenge was to persuade MPs to set aside ethnic agendas and undergo training in national cohesion and integration. According to an Interim Independent Electoral Commission audit, some Ministries had hired up to 40 per cent of employees from one ethnic group.

Another critical issue that surfaced was a perceived reluctance to banish impunity as a means to effecting justice and reconciliation. It was felt that Kenyans were now relying on ICC Chief Prosecutor Luis Moreno-Ocampo to do this for them. Participants pointed out that violence against Kenyans had been occurring decades before the 2007 elections and that these past injustices had contributed to divisions within the nation. Two examples were cited. In 1984, 3,500 people were massacred in Wajir over a two-day period. In Kwanza, 101 people died during violence in the wake of the 1992 elections.

A Member of the TJRC, which was established by an act of Parliament before the promulgation of the Constitution, defended the Commission's credibility against criticism that it had yet to achieve anything. Despite personnel problems and gross under-funding, it had constituted a secretariat with six directors and 71 staff members. About 10,000 statements had been recorded. Hearings would begin in February 2011 and the findings and recommendations would be submitted in August 2011, contingent upon the availability of sufficient funding.

One participant expressed concern that there was still no Supreme Court to provide final interpretations of the Constitution. A panellist said that while the Constitution

stipulated a one-third minimum quota for women's representation on Commissions, there was no reason why appointments should not exceed the constitutional minimum.

Several participants asked how the Coalition Government intended to redress unemployment among youth, as outlined in Agenda 4, and reminded those present that young people had been active in mobilizing the population to vote in favour of the Constitution. The Prime Minister responded that job creation depended on the state of the economy, which had suffered during the recession. He said that the Coalition Government's programme to create jobs for the youth, Kazi Kwa Vijana, had been unfairly criticised as it had not yet been audited. Other state-sponsored initiatives were the Youth Enterprise Fund for Self-Employment and the Youth Empowerment Programme which was part of the Economic Stimulus Programme.

Progress on land reform was answered by one of the panellists. The Land Bill, Land Administration Bill and Land Use Bill were in the process of being drafted while preparations were being made for the establishment of the Land Commission. Consolidating legislation to implement reforms, such as converting freehold to leasehold and long leases to 99-year leases, was a difficult task and one that might offend some parties.

Guest Speaker: Luis Moreno-Ocampo
Chief Prosecutor of the International Criminal Court

Mr Ocampo thanked Kenyans for the hospitality and support shown to him and his team and for the respect accorded to him by Kenyan leaders in his role as an independent part of Kenya's judicial system. He acknowledged the commitment of President Mwai Kibaki and Prime Minister Raila Odinga to finding solutions to past conflicts and to laying the foundations of a new style of political leadership based on respect and cooperation. He was grateful to be part of a meeting that was an incredible opportunity to develop a comprehensive model of justice that integrated the ICC trials and the findings of the Kenyan Commissions into a political and social process of peaceful co-existence, reconciliation and reparation to the victims of violence.

In April 2010 he met with some of the victims, traditional and religious leaders and members of civil society. More recently, an ICC team visited some of the scenes of post-election violence in the Rift Valley.

His mandate was defined by the Rome Statute to end impunity by investigating crimes committed during the post-election violence and presenting the evidence to the judges in the chambers of the ICC. He emphasised that the ICC was investigating murders, rapes and forced displacement that constituted crimes against humanity. It was not investigating the last elections. It was not analysing political responsibility. It was not passing judgement on political parties.

There was no doubt that massive crimes were committed in Kenya. Mr Ocampo's challenge was to prove in a court of justice who were the most responsible for these crimes. As of March 2010, the ICC Prosecutor's Office had been impartially collecting evidence while safeguarding the rights and security of victims and witnesses and respecting the rights of the accused. It had received information from the Kenya National Commission on Human Rights and collected new testimonies, videos and documents. Those individuals identified by the KNCHR and the Waki Commission were given the opportunity to provide their explanation of the facts. Some people had done so.

Mr Ocampo outlined the road map for the ICC process. By 17 December 2010, he would have filed two written applications before Pre-trial Chamber II of the ICC. There were two separate cases, each involving three individuals. The Prosecutor's Office would ask the judges to issue a summons to appear in the Hague rather than requesting arrest warrants. If the six individuals, whose names would be in the public domain, voluntarily complied with the summons, they could remain free during the trial. A hearing before the ICC judges to decide whether there was sufficient evidence to go to trial would be held in the second half of 2011 or early 2012. If the charges were confirmed, the trials could take place in the second half of 2012 or early 2013.

Victims were invited to present their concerns during the proceedings and could request compensation from the accused. Meanwhile, the investigation would continue in and outside Kenya. The Prosecutor's Office was working with Lady Justice Rawal to interview some police officers. They had been called as witnesses and were not under investigation.

Mr Ocampo expressed his concern over attempts to bribe and intimidate people who were perceived to be ICC witnesses. He issued a warning that under the Rome Statute his office had jurisdiction to prosecute anyone found to be obstructing justice. He also stated that there was no evidence to support allegations that KNCHR witnesses had been induced to make false statements.

Mr Ocampo made it clear that the ICC would prosecute no more than six Kenyans for crimes against humanity. Kenyans would then decide on their own way forward. Whether or not they decided to prosecute others, the victims of violence should be assisted now rather than waiting until the ICC trials had been concluded.

There was also another challenge. There could be a resurgence of violence between communities during the trials. Healing and peaceful co-existence should be safeguarded in the coming months.

Panel Two Democratic Space, Rule of Law and Citizens' Rights

Keynote Speaker: Hon Kenneth Marende
Speaker of the Kenya National Assembly

Mr Marende recognised the support and solidarity of the Panel of Eminent African Personalities and noted that Kenyans should rise to the challenge of fully implementing the Constitution by meeting the timelines for its implementation and putting in place the structures that would enable Kenya to move forward. The spirit of the Constitution was intended to counter the culture of impunity and negative ethnicity and corruption, while creating the democratic space required for realising Vision 2030.

Non-reformists feared a change in the status quo as it might strip them of power and leadership. Mr Marende commended civil society for its role in public education and for acting as a mouthpiece for Kenyans. He also commended the Government for its tolerance of civil society's demonstrations calling for respect of human rights.

He then gave an overview of the progress Parliament had made in its reform agenda. Following the passing of the National Accord and Reconciliation Act (2008) and the Constitution of Kenya (Amendment) Act (2008), Parliament had enacted

legislation on rule of law, the protection of citizens' rights, the ending of impunity, and the consolidation of national cohesion. In September 2009 the National Land Policy was adopted to facilitate land reform.

Post-election legislation included:

1. The Proceeds of Crime and Anti-Money Laundering Act
2. The International Crimes Act
3. The National Cohesion and Integration Act
4. The Truth, Justice and Reconciliation Act

Parliament adopted new standing orders on 10 December 2008 that supported Kenyans' right to information. Standing Order 34 allowed for the live broadcast of House proceedings. Standing Order 180 opened Committee proceedings to the public.

Select and Departmental Committees had been formed to handle some of the grievances that ignited the post-election violence. There were Select Committees on unlawful gangs, IDPs and cattle rustling and a Departmental Committee on equal opportunity. Departmental Committees on implementation and delegated legislation ensured that the Executive implemented Parliament's resolutions and upheld the rule of law.

Parliament was expected to enact a minimum of 49 statutes within a clearly stated timeframe to make the Constitution operational:

- Years one and two – 30 statutes
- Year three – 4 statutes
- Year four – 8 statutes
- Year five – 7 statutes

There were other obligations that Parliament should meet within a relatively short timeframe. The Constitutional Implementation Oversight Committee had already been constituted, but other reforms had not yet been implemented. Mr Marende stressed that while there was the option of constitutional amendment to extend the timeframe for implementing these reform procedures, it was not a step he wished to take.

The immediate requirements for implementation of the Constitution that had not been carried out were:

1. The appointment and/or approval of the chair and/or members of the following Commissions:
 - a) Commission on the Implementation of the Constitution
 - b) Judicial Service Commission
 - c) Commission on Revenue Allocation
 - d) Independent Electoral and Boundaries Commission
 - e) Salaries and Remuneration Commission
2. Approval of the nominations for Chief Justice and Deputy Chief Justice as the current Chief Justice had to vacate office within six months of the promulgation of the Constitution
3. Enactment of the Vetting of Judges and Magistrates Bill (2010) as the Constitution provided for the vetting of all judges and magistrates to establish their suitability for office
4. Approval of the nominations for Attorney-General and Auditor-General as the current officeholders had to vacate within eight months of the promulgation of the Constitution

Mr Marende concluded by saying that he was confident Parliament would complete the tasks that lay before it.

Panel Two focused on democracy, human rights and the rule of law. It examined the safeguarding of freedom of expression, assembly and information and other civil liberties. It also reviewed progress to date in judicial and police reform and the disarmament and demobilization of militias.

The moderator opened the session by saying that in her opinion the standards set for democracy, human rights and the rule of law had never been better in Kenya. The facts bore this out. The Attorney-General's office had been separated from the office of the Director of Public Prosecutions. The Constitution entrenched public participation and granted full citizenship to all Kenyans, including women. It also guaranteed equal economic, civil and social rights for all. In addition, Kenya recently ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

However, the purpose of the meeting was to examine how to overcome the challenges of putting these standards into practice. People from the low-income strata did not always experience freedom of association. There had been no optimal solution to organised crime such as protection rackets, drug trafficking and terrorism. Disarmament exercises and police work had been marked by serious human rights violations while extraordinary renditions and profiling had marred counter-terrorism activity. The moderator suggested that to counter this trend, there should be expanded human rights training and greater accountability on the part of both the State and its individual officers. She wondered if sufficient attention was being given to Chapter 6, the Constitution's section on leadership and integrity, and asked panellists if they could give their views on how to uphold constitutional rights by improving the delivery of democracy and rule of law.

The first panellist spoke about disarmament and security-sector reform. He stated that the rule of law was a fundamental aspect of social, economic and political development. However, the State was challenged in strengthening the Kenya Police Service and reforming the criminal justice system. Better leadership, education, economic opportunities for youth and community policing all contributed to improving security. The police faced challenges such as how to stop impunity and how to build trust between Kenyans and the police force. He also noted that organised crime, which was of the greatest concern, was not conducted by ordinary people but by 'the professionals and elite'.

He thanked the governments of Finland, Sweden, the United Kingdom and the United States for working with Kenya on police reform. Once enacted, the National Police Reform Bill would merge the Kenya Police Service with the Administration Police Service to become the National Police Service. The Inspector-General of Police's command of this restructured policing body would be independent of the Executive. When the National Police Service Commission was constituted, it would evaluate internal discipline, equipment and human resource issues such as pensions. There was now an independent complaints body to ensure good policing practices. Legislation under discussion included the Private

Sector Security Bill and the National Coroners Bill. Housing and transport for the police force had improved but benefits and allowances were still very low.

Disarmament programmes had been a success. More than 25,000 firearms had already been destroyed. Another 10,000 weapons and 60,000 rounds of ammunition were awaiting destruction. However, this was not enough. In areas with low standards of education, bursary schemes and economic opportunities should be provided as an incentive for the youth to embrace an alternative lifestyle to cattle rustling.

The second panellist talked about Parliament's accountability and its new engagement with civil society, noting that there had been a collective realization that problems could not be solved by applying the same mindset that had caused them. Opportunities for influencing legislation and decision-making included submitting petitions on standing orders and memoranda to committees and participating in committee confirmation hearings. Civil society organisations such as the Law Society of Kenya, the International Commission of Jurists - Kenya and FIDA Kenya (the Federation of Women Lawyers) had already contributed significantly to parliamentary debate.

He then referred to the status of some of the post-election reforms. The vetting of nominees to public office was a new procedure for the MPs. Parliament was developing guidelines to ensure accountability and integrity in this procedure. The Judicial Service Commission was dealing with the Vetting of Judges and Magistrates Bill (2010) and the Judicial Service Bill (2010), two initial steps that maintained the momentum in a major transformation of the judiciary. The work of the TJRC, which was of critical importance, was back on track. The Parliamentary Committee on Legal Affairs and Administration was confident that this Commission would fulfil its mandate.

The third panellist noted that the way in which the Constitution was implemented would have direct bearing on the future direction of Kenya. In his view, the sequencing for implementation should have started with the creation of the Commission on the Implementation of the Constitution. Tight timeframes called for a coordinated approach that included the participation of civil society. This meant creating a synergy

between State institutions, the Commissions and the Oversight Committees. Amending the Constitution to meet deadlines was not an option. The Constitution gained credibility and public support through its Commissions. Parliament should approve nominations to the Commissions and vote them substantial financial resources. The Commissions should work in a transparent manner that involved civil society.

The fourth panellist observed that the promulgation of the Constitution had generated hope, but these moments were fleeting and could not be squandered. Kenyans should meet the challenge of constitutional implementation. He pointed out that having spent the last year and a half travelling all over the country, it was clear that the aspect of the Constitution that had sparked the imagination of the ordinary Kenyan was devolution. This was generating a grassroots energy that should be harnessed. He cited the example of an incident in Voi where local people had put up a roadblock to protest the state of disrepair of the road. It clearly conveyed the expectations of county government. It was probably true that only 10 per cent of Kenyans understood the Constitution, but they were aware of their constitutional rights and had views on corruption and exclusion. They also had a powerful sense of their expectations of county government. They should be taken seriously or the aspirations of young people and other Kenyans would be dashed.

The fifth panellist chose to speak about Constitutional Commissions. They were the fulcrum of constitutional reform, but the process amounted to nothing without the right people to manage it. In his view, one of Kenya's follies was to expect anti-reformers to lead constitutional reform. The Commissions should be independent as they would make many people unhappy in the course of performing their duties, but they could only be as independent as the people who served on them. Even though there was no shortage of human capital, most applicants were of the type that was not required. To fight impunity, the Commissions needed people who had not been accused of human rights violations in the past. By the same token, there was a conflict of interest when members of the police force were charged with making the decisions on police reform. Oversight committees should assume this role.

Several participants questioned the disarmament exercises. One pointed out that there was ethnic imbalance during the disarming of pastoral communities in northern Kenya as some groups still retained their weapons. Another asked for clarification on the difference between community policing and vigilante groups. This issue was particularly critical in Central Province and was disrupting ambitions for national cohesion. How did the government expect to change the mindset of vigilante groups that had coalesced along ethnic lines? Unless youths' expectations of the delivery of resources to the counties were met, she warned, the vigilantes would become a lethal force. For this reason she suggested that independent bodies such as the National Cohesion and Integration Commission be involved in the formulation of relevant legislation. Another participant deplored the failure of integrity among those police officers who ran their own fleets of matatu taxis and asked how the government intended to address this conflict of interest.

In response, a panellist said that police officers who owned taxi fleets were in contravention of the Constitution and the Public Officer Ethics Act and were being investigated. In another move to instill integrity in the police force, road blocks would be greatly reduced. He said that 39 vigilante groups have been gazetted under the Prevention of Organised Crime Act (2010). There were initiatives underway to rehabilitate gang members: civic education through local radio stations; the Alcoholic Drinks Control Act (2010), which banned underage drinking; and work with religious leaders. He said that Commissions would be involved in policing as well as community policing. 60,000 members of the Kenya Police Service had received human rights training. The disarmament exercise in northern Kenya had been suspended during the referendum but would be resumed.

A participant reminded Parliament that it was important to give priority to the enactment of legislation that maintained the momentum of reform. Local authorities were already meeting in Mombasa and elsewhere to define the role of county government. Civic education was needed to prepare Kenyans for devolution. He urged Parliament to appoint the Independent and Electoral Boundaries Commission as this was

not the time to amend the Constitution. In response, a panellist agreed that Parliament should reform and transform apace with other State institutions and pointed out that gains had already been made. However, an anti-reform culture adhered to by some MPs was creating impasses. Another participant called on civil society to ensure that Parliament kept to the timelines for implementation of the Constitution.

One of the panellists commended Mr Ocampo's earlier statement and noted that the Chief Prosecutor had cleared the Kenya National Commission on Human Rights of any wrongdoing. He said that the language of impunity was the language of fear and that Kenyans had tired of conflict and community-based threats. Security-sector reform entailed freeing Kenyans of police interference in their lives. As such, Kenyans should be vigilant about police reform and accountability and ensure that intimidation of human rights supporters ceased.

Participants voiced concern about the political will to conform to the rule of law, citing extrajudicial killings, disappearances, renditions to Uganda, the profiling of Muslims and the arrest of peaceful protesters when Sudanese head of state, Omar El Bashir, attended the celebrations for the promulgation of the Constitution. One participant proposed the creation of a database on people who had died at the hands of the police to see whether or not the killings were necessary and urged civil society to vet draft legislation. A panellist said that in the past, the rule of law was guided by attempts to quash 'sedition'. There would be a complete review of all laws to ensure that they mirrored the values entrenched in the Constitution.

A participant asked why patronage continued to thrive in Parliament while the Constitution demanded open competition and equitable regional representation. He suggested that Parliament stand its ground against the Executive if appointments to Commissions were not being handled in a free and fair manner. In the view of another participant, Parliament had focused too much on ethnicity when vetting nominees and had missed out on appointing suitable candidates.

A participant pointed out that civil society had requested that the provincial administration be abolished due to persistent violations of rights, but the Committee of Experts on Constitutional Review had disregarded this suggestion. He wondered if it was true that the Ministry of Local Government had been instructed to remove all mention of the provincial administration in the terms of reference for devolution. An effective county government framework was critical as Kenyans saw devolution as the mechanism that would safeguard their rights and guarantee service delivery. It was a very complicated system, and it had not been given enough attention, he warned. County government could easily become a space for corruption and ethnic tension fuelled by former politicians seeking to renew their political careers.

The panellists were then called upon to state the issue each one considered to be critical. One panellist pointed out that there had been more than 100 extrajudicial killings in 2010. The Kenya National Commission on Human Rights might publish a report on this. Accountability of the police force should be one of Kenya's long-term goals. Another panellist was of the opinion that the extrajudicial killings were a response to the emergence of grassroots power. Its momentum was unstoppable and should be managed in a way that worked for Kenya. He noted that Kenya had slipped further down the Transparency International Corruption Index. Endemic corruption was breeding inequality which was in danger of being politicized then ethnicized and militarized.

Another panellist said that Parliament recognized that devolution and police reform were priorities. He said that the police force was only as good as the people it recruited. It was one of the oldest bureaucracies in Kenya and would not change quickly. Educated applicants who wanted to make a career in the police force should be selected over those who were jobless. He added that the State did not allow extrajudicial killings. President Kibaki had issued a circular to that effect and several police officers had been charged.

Panel Three Promoting National Cohesion and Reconciliation

Keynote speaker: Hon Kalonzo Musyoka
Vice President of the Republic of Kenya

Mr Musyoka noted that the meeting was an opportunity to take stock of where Kenya had reached in the reform process and to consider the best way forward. This timely dialogue was a defining moment for Kenyans where they could choose real progress over mediocrity and platitudes. The Constitution provided an ideal environment for promoting the harmonious co-existence of citizens of all races and social standing and of all political and religious convictions.

There were five areas that called for special effort and reflection if the future that Kenyans wanted was to be secured. The first concerned IDPs. Three years after the elections, they were still living in squalid conditions. It was a shameful reminder of the self-interested power-play that was the cause of their displacement. The government allocated money to purchase land for their resettlement. President Kibaki ordered the IDPs to be resettled by Christmas 2010. The officials charged with this task should fulfil it without further delay. Mr Musyoka also called for counselling services,

economic engagement and the provision of reliable security for the IDPs once they had been resettled.

His second concern was grassroots healing and peaceful co-existence. He commended the National Cohesion and Integration Commission for defining hate speech and making Kenyans more aware of tribal bigotry but said that a long road lay ahead. The greatest enemy of mutual understanding and compassion was the average politician who denigrated other communities while retreating into his or her own community during times of turmoil.

The third issue was youth unemployment. In Kenya, 65 per cent of the population was under 35 years. Three out of four of these young people were either unemployed or had precarious jobs. Over the past two years the Kazi Kwa Vijana and Economic Stimulus programmes and the Youth Fund had provided work opportunities for thousands of young people. Other creative initiatives to expand employment were now a matter of urgency. Mr Musyoka proposed a Youth Employment Commission to develop entrepreneurial and vocational skills.

His fourth concern was regional imbalance and inequities. The Constitution was clear on the devolution of power and resources to address regional inequality. Each county would be responsible for the management of its resources. Civic education for grassroots communities would help them to appreciate that only local leaders who were competent could change their destiny for the better.

The fifth area dealt with civic education. Over the past two years widespread civic education through the media and other channels had changed attitudes as was evidenced during the campaigns that preceded the constitutional referendum. In addition to political education, Kenyans deserved civic education on the rule of law and public resources. The implementation of the Constitution was a good starting point for achieving this. Kenyans should not only internalise the spirit and the letter of the new republic but also adopt attitudes based on respect for the Constitution.

Mr Musyoka noted that contentious issues that were swept under the carpet led to future crises. The success of Kenya's mammoth reform process hinged on debunking dishonesty and

embracing truthfulness. This specifically referred to ethnicity, corruption and democratisation.

Striking a balance in political and economic reform was a precondition to achieving true democracy by the next elections. The most effective means for doing this was to eradicate poverty. Kenya Vision 2030 was implementing a social, political and economic programme that could make Kenya a middle-income country within the next 20 years. It was essential to encourage new investment and expand existing business ventures through access to credit, viable commodity markets, supportive infrastructure, competent human resources and an environment where business could be transacted efficiently and at a competitive cost.

Panel Three considered national and social cohesion and integration, youth unemployment, regional imbalances and civic education. It also reviewed progress in the resettlement of IDPs and peaceful co-existence among communities.

The moderator remarked there had been much discussion about how Kenya had arrived at where it was now. He asked the panel to consider where Kenya would be in the future - not only in 2012 but also in 2017. The government should pay more attention to creating social cohesion for the future. For instance, people from northern Kenya did not consider themselves to be part of Kenya. Youth unemployment and population growth were Kenya's ticking bomb. The divide between poor and wealthy should be closed. Civic education was required to revive the nationalist spirit.

The first panellist noted that the TJRC was established as recognition that the truth about past abuses could not be ignored. Kenya had long been in the grip of a creeping conflict which exploded in 2008. What happened in one area was not known in another. These stories should be shared by communities to enable healing. 'We owe it to the Kenyans who fought for what we have today to seek truth and justice. Without this, the promise of the Constitution will not be realised.'

The second panellist observed that in 2008 no one was talking about tribalism even though it was causing cleavages in society. Ethnic groups were being stereotyped by other groups

and these slurs were being widely disseminated thanks to information technology. Community-based organisations were established to hold forums on ethnicity. Feedback indicated that while different ethnic groups liked each other, they did not trust each other. Every part of Kenya had its own version of history and the truth. Ethnic stereotypes should be dismantled. Kenyans needed a Kenyan narrative and a Kenyan national identity.

The third panellist noted that the 2006 African Peer Review Mechanism Report foreshadowed the 2007 crisis with references to tribalism, nepotism, social discrimination and inequitable distribution of national resources. Against this background, the promulgation of the Constitution was a major achievement. Kenyans' self-interest was ethnically driven. They referred to 'my people' and 'my tribe'. What was in place to abolish this? He also pointed out that there had been IDPs in Kenya since the time of independence in 1963. Atrocities committed since 2007 were being investigated, but there was silence on the atrocities committed in northern Kenya in 1984.

The fourth panellist said there was a need to build a critical mass of leaders who understood that diverse ethnicity was good for Kenyans. Kenyans had been accused of selective amnesia because they forgot what happened two weeks ago. It was important to have mediation capability in every county so that contentious issues could be dealt with before they exploded. Kenya's way forward should be driven by issues and not by ethnic concerns.

In the view of the fifth panellist, Kenya's leadership required a dramatic change. There should be more public discussion around the Constitution's Chapter 6 on leadership and integrity. Most politicians had not internalised the values it outlined. Political parties continued to nominate questionable candidates, and politicians continued to be treated like minor deities. Politicians were selfish and corrupt and played the tribal card in order to attain a position of power. Kenyans should work together and become friends whether they liked it or not.

The moderator commended Kenya's reawakening and reminded participants that less than 20 years ago none of those present could have spoken as freely as they were doing today. It had been an enormous journey.

Several participants voiced concern about the IDPs, noting that in addition to the hundreds of thousands who had fled their land, there were many who had been forced to abandon their small businesses. Many survived by scavenging and begging for food. This laid bare an underlying social truth that Kenyans suffered from vast economic inequities. One participant spoke of the IDPs who had been displaced in Lamu in the 1960s and who still had no home of their own. Another said that talk of success in the resettlement of IDPs was worrying as it suggested accommodation with ethnic cleansing. Another participant reported that 60 per cent of the IDPs had been resettled. 6,509 IDPs had been given two acres each, but businessmen and shop owners, who had watched Sh31 billion of their property being destroyed, had not been compensated.

A panellist commented that extreme poverty was a parallel issue. A few weeks earlier, a family in Turkana District had killed their dog to feed its children. The disparity between rich and poor was potentially a much bigger issue than tribalism. A corollary of this was the inability of youth to secure gainful employment even for those with a university degree.

A participant said that the TJRC held the legal opinion that the Indemnity Act did not prevent the Commission from investigating past atrocities. Someone else suggested that peace education be incorporated into the school curriculum. Another participant disagreed with the panellist who said that Kenyans treated politicians like gods. It was the previous constitution that prevented Kenyans from participating in a democracy. From now on, Kenyans will let politicians know when they are not reflecting the will of the people.

Panel Four

The Role of the Media in Monitoring the Implementation of the Constitution and the Reform Agenda

Keynote speaker: Linus Gitahi
Chief Executive Officer of the Nation Media Group

Mr Gitahi recalled that Kenya suffered its worst humanitarian crisis since independence in the wake of the December 2007 presidential election. Some 42,000 houses and businesses were looted or destroyed. Farmers abandoned their fields which posed long-term risks for national food security. The health and education sectors were compromised by the displacement of professionals.

The crisis unmasked a profound lack of confidence in political institutions and leaders. It also exposed deep-rooted problems

that had never been addressed: negative ethnicity, the culture of impunity, contentious land allocation and pervasive poverty. Kenyans survived the crisis under the unified leadership of a Coalition Government.

An Infotrak Harris survey conducted earlier in 2010 showed that the media was Kenya's second most trusted institution after the Kenya National Human Rights Commission. This was not just the result of diligent journalism. It demonstrated an erosion of faith in other institutions. A 2009 survey indicated that the majority of Kenyans were experiencing a sense of hopelessness.

The media played a fundamental role as a catalyst for change by provoking public debate, promoting state transparency and accountability. Four months after the referendum, constitutional discourse had been fraught with contention generated by politicians, civil society, religious and other interest groups. Disagreement should change to consensus so that the Constitution could be implemented. The media could provide a moderating voice and manage expectations.

Kenyans should focus on three issues – administrative appointments, policy reform and legislation. Appointments to the Commission on the Implementation of the Constitution marked the beginning of the implementation process. Appointments to the Commission on Revenue Allocation and the Salaries and Remuneration Commission would fast-track the administrative operations of the bureaucracy. Appointments to the judiciary were urgently needed as an indicator that justice would be secured for all and to begin the overhaul of the High Court, the Court of Appeal and the Magistrates Courts.

It was the media's duty to remind the political leadership and all Kenyans of the dangers of not concluding these appointments within the prescribed timelines. The media should highlight the schedule of the reform agenda to ensure compliance with the implementation provisions.

Another urgent matter was the restructuring of the civil service and provincial administration as well as the parastatal, local government, security, teaching and electoral bureaucracies. The Constitution provided for the National

Assembly, the Senate and 47 regional assemblies while the Supreme Court was the final court of the judiciary. The media had the role of explaining these aspects of the Constitution.

Policy reform was crucial for defining the parameters for legislative and administrative reform. The media should publicize the key pillars of the Constitution, such as the Bill of Rights. Mass education helped law enforcement agencies, such as the police force, to understand the limits of their power and to appreciate the transformed social and human rights landscape.

The implementation of the Constitution would be as drawn out and contentious as the campaign to have it in the first place. While it provided an opportunity to fight back against authoritarianism, those opposed to its implementation could win out. The media could help to deepen democracy by making the point that political debate was about what was in the nation's best interest rather than about ethnically driven interests.

The counties were the cornerstone of Kenya's new democracy so it was important that the media explained the process of devolution of power. Corruption would pose the greatest threat to devolution's success as there would be no watchdog organisations at county level. The media should collaborate on comprehensive coverage of all 47 counties. A Media Development Fund could subsidize a collaborative effort by the media to set up facilities to cover county government and to train local journalists.

Political and national debate on justice and reconciliation had become increasingly complex and polarised. The ICC's complementarity principle supported the prosecution of perpetrators of crimes against humanity in communities affected by these crimes. It was the opinion of the business sector that a local tribunal should be established to do this. Similarly, there were more than 150,000 displaced Kenyans who had yet to be resettled. The allocation of land for this purpose was an urgent matter.

Panel Four looked at the roles and responsibilities of the media in ensuring that the Constitution and the Reform Agenda were implemented on schedule. It discussed constitutional

safeguards, media in a democratic society, control of the media and the media's relationship to civil society organisations.

The first panellist said that after the 2007 elections, some of the media polarised along political lines which exacerbated the violence. But most of the media coverage of news events was very responsible which, in turn, contributed to ameliorating the situation. He noted that the government, as policy maker, could get in the way of the media. He also noted that some sectarian and vernacular FM radio stations incited listeners to violence. The Media Council needed to be strengthened to prevent this from occurring again. Neither should media owners interfere with editorial policy nor take over the running of radio stations. Legislation was underway to provide for the media's self-regulation. The Constitution encouraged media freedom but the media should not interpret this as permission to become politicized. Instead it should act as a forum for public debate.

Noting that a free media was the backbone of democracy but that it could sometimes rub the establishment the wrong way, the moderator asked panellists to define the relationship between the media and the State.

The second panellist replied that for the media to be trusted in its role of informing society, it should align itself with the public interest and not be hostage to interest groups. Despite the critics, the media had been essential during the post-election violence as without news coverage, the public would not have been aware of the killings or the extreme violence that was taking place. The worst footage and photographs had been archived but had never been printed or aired. The media showed the public the minimum necessary to raise the alarm on Kenya's descent into lawlessness. He pointed out that even though press freedom was embodied in the Constitution, the media would have to continue to resist being used to achieve political ends. State conflict with the media would endure as long as the media was doing its job properly. He added that Kenyans needed transformative leadership in politics and institutions.

The third panellist pointed out that he was the only media owner on the panel and that he subscribed to the Wikileaks school of thought. As an owner he had made the decision to continue broadcasting throughout the post-election violence despite the ban on real-time news. He warned against the practice of self-censorship where phrases such as ‘a certain ethnic community’ were used to achieve tribal neutrality. Earlier in the year, some politicians announced that if the Constitution was accepted, then Kikuyus would be kicked out of the Rift Valley. The panellist was criticised for allowing this to be reported in full, but in his view, it was important that people knew they would be ‘outed’ by the media if they resorted to hate speech.

The fourth panellist noted that Kenya enjoyed a liberal and highly diverse media. In 1953 Kenya began radio broadcasts in local languages. Television started ten years later. Now there were 140 radio stations on the air. The media had been diligent in reporting on the items in Agenda 4: armed gangs, the perpetrators of post-election violence, the plight of IDPs, the absence of government cohesion and the promulgation of the Constitution. But some members of the media did not practice responsible journalism. When government devolved to the counties, there was a risk that the counties could become ethnic enclaves. As such, vernacular radio stations were not necessarily in Kenya’s best interests.

The fifth panellist expressed doubts about the competence of the media. When a poll found that Kenyans believed the media should be regulated, he was instructed not to read the poll result on air. In his view, the media was tailored to suit the elite, and it failed in its duty to expose those who claimed to be able to lead the country.

A participant thanked the media for the support it gave to the National Cohesion and Integration Commission, especially in the run-up to the constitutional referendum, and noted there had been an element of self-regulation on ethnic hatred. She referred to the panellist whose newspaper ran the story on hate speech and pointed out that this contravened the National Cohesion and Integration Act in the sense that if you gave someone a platform to air ethnic incitement, you were criminally liable. She expressed

disappointment that media discussion on devolution did not focus on cohesion. Instead, the media was encouraging balkanization through its coverage. She urged the media to engage citizens in debate on county leadership and integrity and to encourage counties to open the doors to different ethnic communities.

Concerns were raised about negative ethnicity in media reports and the regulation of vernacular radio and ‘the gutter press’. A panellist observed that the media was drawn from society thus editors and reporters could mirror the prevailing culture of the moment. In order to ensure responsible reporting from the gutter press and vernacular radio, he recommended a strong regulatory environment that at the same time did not curtail news coverage. Another participant said that, for the sake of the success of the Commissions’ work, newspapers should be careful to moderate their language and avoid sensationalizing. Someone else said that media houses owned by politicians assumed the proprietors’ views. Vernacular stations were of particular concern in the context of the 2012 elections. In the opinion of a panellist, politicians aspiring to high office, established media houses to use as political mouthpieces. The Minister on the panel said that the way forward was to regulate the media through an independent Media Council that was empowered to reward and penalize. He reminded participants that a new Media Council was being formed under the Constitution and invited civil society to put forward their suggestions.

Another participant observed that the government had asked for civil society input for the Communications Commission Bill and the Media Bill by the following January just as Kenyans were entering the Christmas holidays. Why the great hurry? The Minister responded that the drafting of the legislation was a consultative process.

A participant said The Standard and The Daily Nation still owed Kenyans an explanation about their election databases and wanted to know how the newspapers intended to provide Kenyans with an accurate, independent vote count in 2012.

A panellist gave an example of the responsible attitude of the media by listing how it had handled the period of the post-election crisis onward. During the violence, all media ran the same headline on one day, 'Save Our Country'. Rather than backing one single leader, they carried editorials advising the two principals to share power. After the referendum, the headlines were measured rather than sensational and partisan. The media's future responsibility was to ensure it did nothing to fuel tensions.

General Session The Way Forward for Kenya

The General Session summarized the discussions that had taken place during the meeting with a view to ensuring the will for reform did not flag. Participants assessed what still needed to be achieved on the Kenya National Dialogue and Reconciliation Reform Agenda and gauged progress on rolling out the Constitution. They also deliberated on whether the new governance structures were strong enough to prevent a recurrence of the 2007/8 post-election violence in 2012.

The moderator summed up the previous panel discussions, saying that participants had spent the last two days taking stock of what had gone right and what had gone wrong.

Panel One had examined public service and civic participation and posed the question, 'Can we reform without reformers?' It was difficult to make a meaningful contribution when legislation was tabled at the last minute. It was essential to be transparent. An example to be emulated was how the Interim Independent Electoral Commission conducted the constitutional referendum and several by-elections with fairness, integrity and transparency.

Panel Two focused on security-sector reform, democratic space and the rule of law. The consensus was that accountability needed to be enhanced. Kenyans had high

expectations, but were the initiatives that were being undertaken an adequate response to this optimism? Kenya had an excellent Constitution but should it be entrusted to members of the 'old order'?

Panel Three talked about dishonesty and the danger of sweeping contentious issues under the carpet. An example of this was the impact of population growth as evidenced by the massive increase in the ratio of youth to the rest of the population. Negative ethnicity was discussed. Participants had concurred that Kenyans had not yet achieved a unifying, national identity.

Panel Four dealt with the media and examined whether the State, the media owners or the editors and reporters set the agenda for news coverage. Was the media covering the right issues in the right way? The regulatory role of the Media Council and the pending legislation for self-censorship was also discussed.

The first panellist observed that the past should be relegated to history. It was time to chart the roadmap for the future. This meant implementing the Constitution in a coherent and systematic manner. There were still forces in the government that were competing for the lead roles and agencies. Devolution mechanisms, for instance, should be clarified. He noted that the participants had criticised certain developments. In his view, it was time to stop lamenting. He also pointed out that while everyone wanted to be included, it was very difficult to have truly inclusive processes. The government needed to establish its priorities and put the right institutions in place as soon as possible. Constitution of the Supreme Court was critical as it was the judicial body that would interpret the Constitution.

The second panellist reiterated that the government could not reform without reformers. The Ministry of Justice, National Cohesion and Constitutional Affairs released three bills three days after promulgation of the Constitution: the Commission for the Implementation of the Constitution Bill (2010), the Vetting of Judges and Magistrates Bill (2010) and the Judicial Service Bill (2010). These bills were the drivers of the implementation of the Constitution yet the Minister received

no support from MPs when he asked for the bills to be read. Mr Kibaki was the first president to accept transparent interviews, but Parliament adjourned instead of approving the names the President had put forward.

To pretend to implement the Constitution while doing otherwise was not fair to the public. The Chief Justice was required to leave office by 28 January 2011 and his position had yet to be advertised. The police reform bills were ready, but because the Commission on the Implementation of the Constitution had yet to be constituted, they could not be put before the House.

He praised the Deputy Prime Minister and Minister for Local Government for establishing a taskforce on devolution but pointed out that the funding for its work had not been secured. He wondered if the taskforce's interim report would be ready in March 2011.

The government had an obligation to eliminate political risk so that Kenyans could enjoy stability and economic development. As such, the government should create jobs for youth and an enabling investment environment for the private sector. Above all, the government should establish the Commission on the Implementation of the Constitution. Draft legislation was ready on the Independent Electoral and Boundaries Commission and electoral reform. The boundaries issue could be dealt with as it arose. He then appealed to the international community to provide additional financial support to the TJRC.

The moderator noted that on the first day of the meeting, the performance of the Executive was called into question. Now on the second day, Parliament was being challenged on its political will to undertake reform.

The third panellist noted that both Parliament and the Executive had demonstrated that they would not deliver on reforms. Parliament had failed to respect timelines, and the Executive had not taken the action required of it. Greater support was needed from civil society to achieve reform. The bills referred to by the second panellist could not be enacted until the Commission on the Implementation of the Constitution was operational. There was also an urgent need to constitute the Commission on Revenue Allocation

and enact legislation for judicial reform. The establishment of the Supreme Court was critical to the review process so that it could act as a court of last resort for disagreements on constitutional implementation. In her opinion, it should consist of four Kenyans, including the Chief Justice, and three other judges recruited from the Commonwealth to ensure impartiality on issues such as ethnicity. The demarcation of constituency boundaries was a case in point.

Meanwhile, there was much that the government could do administratively. There was not much left to be done for the Judicial Service Commission. But what if both the Attorney-General and the Chief Justice sat on the Commission? Was that a fresh beginning or a mix of the old and the new? The government had yet to embark on legislating police reform, but the police culture could be changed with training and by instilling respect for human rights. The Attorney-General had yet to issue a gazette notice to formalize the handing over of his power to the Director of Public Prosecutions. Under the Constitution, there was now no need for both an Attorney-General and a Minister for Justice. The Executive could ensure that the Cabinet and State institutions complied with the integrity guidelines outlined in Chapter 6 of the Constitution. The Interim Independent Electoral Commission did not clear by-election candidates who did not conform to the requirements of Chapter 6. That was an example of what could be done administratively without waiting for legislation to be in place.

The third panellist proposed a constitutional audit committee to oversee a roadmap for reform that was clear and time bound. Civil society should remain vigilant to ensure strict adherence to the Constitution. Where the government lacked political will, it was the responsibility of civil society to generate it.

The fourth panellist asked participants what individual action each one was taking to maintain the momentum of the reform process and said they would be held accountable for that. He added that there should also be accountability at the highest level. He noted that many young people did not know how to get started in improving their lives despite the Kazi Kwa Vijana initiative. He suggested they be enlisted into

community policing and menial jobs in hospitals and other institutions. He underlined the importance of civic education and suggested that it be funded through the National Cohesion and Integration Commission. He also called for a civil society mechanism that could hold Parliament to account.

The fifth panellist stated that Kenya was the first country to initiate institutional revolution. While it was irreversible, there was no mechanism to implement it. As the government impeded reform, there should be a parallel civil society mechanism. He called for a sessional paper that outlined national objectives in a systematic way along the lines of the Millennium Development Goals.

The fifth panellist observed that the government consisted of the Executive, the Legislature and the Judiciary. Constitutional change in the Executive and Legislature could not be implemented until the 2012 elections, but there was nothing to stop judicial reform. Even though it was not perceived as a political priority, it was important for instilling confidence in the reform process and paving the way for devolution and reform in other sectors. He urged the Cabinet to acknowledge good faith in civil society by vesting the Ministry of Justice, National Cohesion and Constitutional Affairs with the role of interlocutor between the civil legal fraternity and government for the drafting of legislation. He also called on the Executive to ensure that the Ministry of Internal Security was transparent and accountable in its business, particularly with regard to police matters and extraordinary renditions to Uganda.

Several participants congratulated Kenya's political leaders for their achievements in extracting the country from crisis and initiating a new governance paradigm. At the same time, concerns were raised about several issues that could impede the course of reconciliation, enduring democracy and economic expansion.

There was concern that the announcement of the ICC in two weeks might distract from the constitutional process just when timing over legislation and the appointment of Commission members was critical. Participants appeared to be in favour of the ICC process as a means to ending the cycle of impunity and warned that the process should not

be 'bullied'. A participant also called for the establishment of a local tribunal. Another participant pointed out that Kenya was part of the international community and should conform to international best practices. An example of this was when foreign experts who had been invited to sit on the Committee of Experts on Constitutional Review were helpful in shifting entrenched points of view.

One participant observed that in his view, the rule of law rested on four pillars: democracy, sound legislation, properly functioning institutions and – the most difficult – people with the integrity and knowledge needed to run those institutions, as well as international standards. Counties would be the cornerstone of Kenyan democracy, and the biggest threat to devolution was the lack of accountability among the leadership. There should be a system for overseeing a thoughtful and transparent handover of power. Central government should develop handbooks and other tools to train county officials in their considerable responsibilities. There should also be widespread civic education on devolution.

Governance was called into question on several fronts. A participant reaffirmed the observation of one of the panellists that without public service, it did not matter how many reformers were in public office. Yet there had been little discourse on this issue. Another participant pointed out that there should be a platform to allow sustained dialogue between civil society and State institutions and Ministries. A panellist underscored this need when she pointed out that political accommodation was being sought in Parliament, but civil society should be vigilant to ensure these settlements were not unconstitutional. A Minister responded that by March 2010, there would be a concerted effort on public service reform. Another Minister noted that coherence and mutual trust was lacking in the Coalition Government. When the two principals reached a common understanding, it was reversed by their advisors.

A participant warned of the danger of losing sight of political, social and economic reform in the run up to the 2012 elections. The best campaign platform was to demonstrate on a daily basis that the standard of living was improving for the ordinary people who constituted the electorate.

Another participant called for 'a reality check' on the reform agenda as it could not all be executed before the elections. The sequencing in the schedule could not be achieved unless quality was sacrificed to meet the time lines. In his view, the priority items were those pertaining to elections: constituencies, boundaries, devolution, the police service and the judiciary. Another participant concurred and called for consultation workshops to maintain momentum on legislation that should be in place before 2012.

A participant said that the youth sector of the population was a gold mine - not a time bomb. She sought assurance from a Minister on the panel that the government would not automatically undermine their activities and that restrictive legislation such as detention without trial would be removed. Another participant stated that financial crime had a tight hold on political life and cited the example of Charterhouse Bank.

A Minister assured the meeting that government funding was available to finance the Constitutional process. Another Minister asked the international community for additional financial support to ensure the pace did not slacken.

A participant voiced a generally held view on the way forward. Political settlement should extend beyond the two principals and embrace political parties and Parliament so that legislation could be enacted. Another participant warned the Executive and Parliament that their top-down approach was out-dated and said that there were now mechanisms in place to remove unsuitable politicians.

Closing Remarks

by Kofi Annan, Chair of the Kofi Annan Foundation and the African Union Panel of Eminent Africa Personalities

Honourable Ministers, Excellencies, dear friends,
Wananchi Wa Kenya!

During the past two days, we have had extensive discussions on the progress achieved and the challenges that remain to accelerate implementation of the National Accord.

The discussions have been frank, at times passionate; but I've also heard renewed optimism and real determination to entrench these reforms into the fabric of Kenyan society. Our discussions have been rich. We have heard clearly where you wish to go: and you have indicated what needs to be done to get there.

Let me attempt to summarise the key messages from this meeting. We have heard that:

The promulgation of the new Constitution has given Kenya a better framework to promote comprehensive change. Full implementation is critical, and must begin in earnest. Given the magnitude of the task, it is essential that priorities be established to move the process forward effectively.

You need to move more quickly before it becomes complicated by the electoral calendar. To use the Prime Minister's analogy – it is vital that the aeroplane stops taxiing and actually takes off. Otherwise the achievements to date will be in vain.

Institutions do not reform by themselves. Kenya's leaders are responsible for bringing about change. You must keep up with public demand; stop delays and adhere to the timetable for Agenda Item 4 reforms.

Now is the time for courageous leadership – for leaders willing to make the difficult decisions necessary to move the country in a new direction.

The values and principles contained in the new Constitution must be embedded in a new political culture; a new way of doing things, which unites all Kenyans around a strong Kenyan identity. This means promoting reconciliation and ending negative ethnicity.

It is vital that the Commissions and other structures created to implement the Constitution and realize national cohesion and reconciliation be given all the political backing and financial resources they need to carry out their work effectively and urgently.

In this regard, I am encouraged by the statement this afternoon that the Government will make available the resources necessary for implementation of the new Constitution. Once the Government commits its own resources, I am sure that it will encourage the donors to continue their generous support.

People want to see more transparency and accountability across all public institutions. They want to see an end to business as usual. Civil service reform must be accelerated. The Government must also ensure transparent, merit-based selection and greater public consultation in these processes.

Devolution presents particular challenges and opportunities. It will be a complex process which is why the Government must ensure broad-based civic education.

Impunity continues to be the greatest threat to the reform process. Judicial, police and security sector reform must be fast-tracked and implemented. The enabling legislation is ready – now is the time to enact it.

The new electoral law and Political Parties Act must also be put in place as a matter of urgency. The media is going to play an important role as we move forward. A fair, balanced and responsible media can and should be a force for good. It must help to promote national cohesion, healing and reconciliation.

The Government must implement economic policies which encourage private sector investment; create jobs and opportunities

for young people; and address the inequalities in society.

The implementation of the new Constitution will create the right environment to promote economic growth and development that will help lift millions of Kenyans out of poverty.

To make these changes possible and sustainable in the long-term, we need to restore social trust in the way we deal with each other.

In order to achieve your collective goals, both the Executive and Parliament must devise effective mechanisms to resolve disputes and find mutual consensus on the way forward.

Similarly, it is important that the Government develop a comprehensive and coherent plan for the implementation of the Constitution. This will enable donors and other supporters to understand where the needs are and help provide the necessary financial and technical support.

Let me conclude my remarks by saying that every individual in Kenyan society has a role to play in taking the country forward. Indeed, it is a serious responsibility given the short time we have before the next General Elections.

To my civil society friends, I urge you to remain vigilant and keep up the pressure and drive these reforms forward. I repeat what I have said earlier, if leaders fail to lead, the people can make them follow.

To my friends in the international community, I urge you to continue your engagement and generous support. You have seen the great strides that have been achieved.

Ladies and Gentleman, I came here to listen. What I've heard makes me believe that the prospects are good. You are passionate about your country, honest about the challenges you face; and determined to create a democratic, peaceful and stable Kenya that is rooted in good governance, the rule of law and respect for human rights.

Continue to rebuild your nation in the knowledge that you have the firm support of your friends on the continent and throughout the world.

Asante Sana!

Annex I

Implementation of the KNDR Agreements

Background Note and Summary of Findings

Prepared by South Consulting.¹ November 2010

Introduction

¹ South Consulting is a local research and consulting firm mandated by the Panel of Eminent African Personalities to independently monitor and evaluate implementation of KNDR agreements. So far, eight reports have been issued. These have been shared with the Coalition Government and other stakeholders. Periodic progress reports are found at: <http://www.dialoguekenya.org/report.aspx>

Following the political violence that engulfed Kenya after the disputed December 2007 General Election, international mediation by the African Union (AU) Panel of Eminent African Personalities, comprising Mr Kofi Annan (Chair), Mr Benjamin Mkapa, and Mrs Graça Machel, brought the two main parties – the Party of National Unity (PNU) and the Orange Democratic Movement (ODM) – into the Kenya National Dialogue and Reconciliation (KNDR) forum for mediation. The overall goal of the KNDR process was to achieve sustainable peace, stability and justice in Kenya through the rule of law and respect for human rights.

The parties agreed to take several steps to end the crisis. They also identified long-standing issues that had caused the crisis and which posed a threat to Kenya as a unified country. This background note provides a summary of progress achieved and identifies pending issues. The note also seeks to initiate a discussion on the way forward. It draws from the various periodic reports by South Consulting.

It is noteworthy that on 4 August 2010, Kenya passed a new Constitution in a referendum. With 67 per cent approval, the new Constitution enjoys wide public support and legitimacy.

The voter turnout itself, at 72 per cent, was unprecedented in Kenya's history. The approval of the new Constitution with such high voter participation marks an important new beginning.

The new Constitution is of historical significance to Kenya and Africa in general. It is comprehensive in scope and seeks to radically transform the state, public institutions and the practice of politics. It is also important because it ensures a viable governance structure, which various amendments to the post-independence constitution severely undermined.² Subsequent efforts to deliver a new governance framework also failed to yield fruit. The promulgation of a new Constitution on 27 August 2010, about two years after the signing of the KNDR agreements, is thus a major achievement for the mediation process. Indeed, the new Constitution has given Kenyans a sense of optimism and created a new momentum for reforms. It is built on values and principles of governance that seek to promote national unity, social justice, human rights and good governance in line with the overall goal of the KNDR.

The KNDR Agreements

The parties agreed to a four-point agenda:

- Agenda Item 1: Immediate action to stop the violence and restore fundamental rights and liberties
- Agenda Item 2: Immediate measures to address the humanitarian crisis, and promote healing and reconciliation
- Agenda Item 3: How to overcome the political crisis
- Agenda Item 4: Addressing long-term issues, including undertaking constitutional, legal and institutional reforms; land reform; tackling poverty and inequality as well as combating regional development imbalances; tackling unemployment, particularly among the youth; consolidating national cohesion and unity; and addressing transparency, accountability and impunity

Under the KNDR framework, the parties signed the 'Agreement on the Principles of Partnership of the Coalition Government,' laying the basis for the National Accord and Reconciliation

² The constitution inherited at independence was amended many times to centralise power in the executive. This undermined democratic governance and provoked struggles for comprehensive constitutional reforms. By the early 1990s, there was a strong movement for constitutional reforms. The beginning of 2000 witnessed progress after the Constitution of Kenya Review Commission (CKRC) began collecting views from the public. A referendum on the proposed new Constitution was held in November 2005 that returned a negative verdict. Fresh efforts to have a new constitution began after the signing of the KNDR agreements.

Act, 2008. The law established a Coalition Government that had the two opposing parties share power and formulate a comprehensive framework for far-reaching reforms to prevent a recurrence of the crisis. Progress has been achieved in all the Agenda Items but there are still pending issues. The discussion that follows provides a summary of what has been achieved and issues to be fully addressed.

Agenda Item 1: Immediate Action To Stop Violence And Restore Fundamental Rights And Freedoms

What was agreed (summary):

- Kenyans to stop all acts of violence
- Illegal armed groups and militia to be disarmed and disbanded
- Investigation of all cases of crime, including police brutality and use of excessive force
- Requiring the police to act in accordance with the constitution and the law – the Police Act and the Force Standing Orders
- Security forces to carry out their duties and responsibilities with impartiality, without regard to ethnicity, political persuasions or partisan considerations
- Promoting and protecting freedoms of assembly, press/media, and speech
- Stopping hate messages from being broadcast

Where are we?

Different forms of political violence occurred during the crisis but the signing of the National Accord ended the violence.

Indeed, political violence has not recurred since. In this regard, the end of political violence and the passage of a new Constitution are arguably the most significant and positive outcomes of the KNDR process so far.

This notwithstanding, crimes committed during the post-election violence have not been successfully prosecuted. Illegal armed groups that formed during the crisis disappeared but were not systematically disbanded. The two parties agreed to establish a Commission of Inquiry into the Post-Election Violence (CIPEV).³ It recommended the establishment of a Special Tribunal to try the perpetrators of the violence and thus provide justice for victims. The Commission recommended that the parties sign an agreement to establish the Special Tribunal within 60 days after the report was handed to the Panel of Eminent African Personalities or the Panel's representative. It also recommended that the law be enacted within 45 days after the signing of the agreement or else, the matter would be handed over to the International Criminal Court (ICC) for investigation and prosecution. Going by these time frames, the Special Tribunal should have been established and been operational by January 2009.

The Cabinet and Parliament were unsuccessful in setting up the Special Tribunal by January 2009. By the end of June 2009, the attempts to set up the Tribunal were still not successful. Consequently, on 9 July 2009, the Panel handed over the sealed envelope and supporting materials to the Prosecutor of the ICC. The Prosecutor began investigations into the situation in Kenya, on 31 March, 2010, with the approval of the Pre-Trial Chamber II. The ICC investigation of the Kenya situation has had several consequences. One, reports of intimidation of potential witnesses escalated. Two, political factions and realignments focusing on safeguarding the interests of those who felt threatened by these developments solidified. This has in turn continued to undermine commitment to prosecute those involved in the post-election violence. This factionalism has also weakened the internal coherence of the main political parties and the Grand Coalition itself.

Kenyans are generally supportive of prosecutions for all perpetrators of the post-election violence. Surveys have consistently shown that the majority of Kenyans support the

³ Popularly referred to as the Waki Commission (named after Justice Philip Waki who was its Chair.)

intervention of the ICC in seeking to bring to justice those most responsible for the post-election violence. But official commitment to protect witnesses has not risen in tandem with public enthusiasm for the ICC. Some potential witnesses have reportedly disappeared or been killed. To restore public confidence in the prosecutions, there has to be effective protection for all witnesses by concerned agencies and a demonstration that the quest for justice is real and irreversible. Furthermore, the ICC will only prosecute the senior officials who bear the greatest responsibility. This raises the need to establish national judicial mechanisms to try the middle and lower level perpetrators. It is not the ICC alone that should be intervening to close the impunity gap. There must be other mechanisms to complement the ongoing efforts to tackle impunity. In this regard, it should be fully recognised and reiterated that the ICC does not target countries or communities but individuals and impunity based on the evidence collected by the Office of the Prosecutor (OTP).

Brutality, use of excessive force, and forcible dispersal of peaceful meetings and demonstrations continue to characterise police conduct. The attitudes betrayed by these behaviour patterns hamper progress towards the restoration of fundamental rights and freedoms. The Bill of Rights in the new Constitution provides expanded space for the enjoyment of these freedoms. There is need to move with speed in undertaking judicial and police reforms, among others, so as to appreciate the change under the new Constitution. Bringing into force the Bill of Rights is important in this respect.

Agenda Item 1 Summary: What needs to be done

- Disbanding illegal armed groups and prosecuting members who perpetrated violence
- Establishing a local mechanism (e.g. Special Tribunal) to try low and middle level perpetrators of post-election violence
- Undertaking comprehensive institutional and administrative police reforms
- Deepening protection of rights and freedoms and stopping violent dispersal of demonstrators

- Providing justice for post-election violence victims
- Ensuring that the Witness Protection Programme is effective and fully operational
- Halting extra-judicial killings
- Implementing and upholding the Bill of Rights in the new Constitution

Agenda Item 2: Addressing The Humanitarian Crisis, And Promoting Healing And Reconciliation

What was agreed (summary):

- Assist and encourage Internally Displaced Persons (IDPs) to return to their homes or be resettled new areas
- Provide adequate security, protection and basic services for IDPs in camps
- Operationalise the humanitarian fund for mitigation of effects and resettlement of victims
- Streamline procedures for disbursement of funds
- Assist returning IDPs to resume farming activities
- Promote healing and reconciliation
- All parties to convene joint rallies to promote peace
- Establish all-inclusive peace and reconciliation committees

Where are we?

By the end of December 2009, the Government had closed all official camps for Internally Displaced Persons (IDPs) and given relief assistance to many of them. However, insecurity and lack of funds to re-establish their lives have prevented some IDPs from returning to their homes. They live in crowded

‘transitional’ camps near their farms. It is an issue of concern that some IDPs are yet to settle more than two years after the crisis. Further, there are still some Kenyan refugees in Uganda who are yet to return. Alongside these concerns are allegations of corruption at different levels of IDP relief interventions. These allegations have yet to be fully investigated.

A durable solution to the plight of IDPs must be found. While providing them with land and shelter is important, their security must be prioritised. Without finding a lasting solution to their problem, politicians will continue seeking to make capital out of it. Nonetheless, the ultimate success of IDP resettlement efforts is inextricably linked to effective healing and reconciliation at the grassroots level.

Political leaders made commendable efforts to hold a few joint rallies in Rift Valley Province, where they emphasised the need for healing and reconciliation, however, these rallies were insufficient to address the chasms created by the political violence. The approach itself was not systematic. At present, internal differences within the various political parties make it even more difficult to convene such rallies. But civil society and religious groups have demonstrated good leadership in reconciling communities. Their impact, however, cannot be sustained if political leaders from different communities are antagonistic towards one another.

Supporting civil society and other groups that are promoting healing and reconciliation is important at this time. Political leaders have a responsibility, too, because national conflicts tend to trickle down to the local level and to cause tension between communities. For this reason, the National Cohesion and Integration Commission (NCIC) and other important bodies – including peace committees – will be required to quickly establish a mechanism for monitoring trends in healing and reconciliation, as well as mitigating conflicts.

Agenda Item 2 Summary: What needs to be done

- Finding a durable solution to the plight of IDPs in transitional camps and those integrated among communities

- Repatriating Kenyan refugees from Uganda
- Prosecuting those who embezzled resettlement funds
- Disbursing humanitarian funds to deserving and registered IDPs who are yet to receive the funds to which they are entitled
- Completing the process of allocating land to selected IDP households
- Undertaking comprehensive reconciliation activities under the leadership of senior politicians
- Finalising the National Policy on IDPs

Agenda Item 3: Resolving The Political Crisis (Power-Sharing)

What was agreed (summary):

- Real power-sharing to move the country forward
- The Coalition Government to take into account the principle of portfolio balance for the parties and to reflect their relative parliamentary strength
- Partners to govern together in good faith to push through a reform agenda
- Engage in constant consultations and be willing to compromise
- Partners to ensure mutual trust and confidence

Where are we?

The KNDR process agreed on the establishment of a Coalition Government to undertake comprehensive reforms, including those that would address the fundamental causes of the crisis. The parties agreed to work together in good faith as true partners and to ensure they were united in pursuing reforms.

The parties also agreed to consult constantly and to be willing to compromise for the sake of moving the country forward.

The National Accord and Reconciliation Act, 2008, established the posts of Prime Minister and Deputy Prime Ministers in line with the agreement on power sharing. The parties shared Cabinet positions on an equal basis in accordance with the spirit of the National Accord.

However, lack of cohesion and coherence in decision-making within the Coalition Government still exists more than two years after its formation. At times, pronouncements by members of the Cabinet create and nurture the impression of 'two-governments-in-one.' There are instances where the two sides give opposing viewpoints on important national issues. This tends to slow decision-making.

The Coalition Government, as well as the two parties in it, is yet to establish an effective framework for managing internal conflicts and disputes. The parties are yet to fully and effectively operationalise the Permanent Committee on the Management of Coalition Affairs. The absence of an effective framework to resolve disputes during this period of implementing the new Constitution and the wider reform agenda are issues of concern. Internal coherence in Government is critical for the effective implementation of the reforms and particularly the new Constitution.

There has been an improved working relationship between the two principals since mid-2009. The two leaders consult regularly and, at times, jointly articulate Government policy on important national issues. This development, however, is rarely evident below the level of the two principals. There is little or no consultation along party lines. Parties themselves lack internal coherence.

The lack of an effective framework to manage coalition affairs will continue to exacerbate these problems, especially as the two parties begin to lay the ground for the next General Election. It is important then that the parties establish a mechanism on how to resolve disputes and how to promote cohesion within the Government in the remaining period of their term.

Agenda Item 3 Summary: What needs to be done

- Activating the Permanent Committee on the Management of Coalition Affairs by signing a binding agreement on the management of the coalition
- Establishing conflict resolution and management processes within the Permanent Committee
- Establishing a mechanism for monitoring implementation of agreements
- Holding regular and structured consultations between the two parties (e.g. Joint Parliamentary Group Meetings)
- Effective implementation of the Political Parties Act

Agenda Item 4: Addressing Long-Term Issues and Solutions

What was agreed (summary):

- Undertaking constitutional, legal and institutional reform
- Undertaking land reform
- Tackling poverty and inequality as well as combating regional development imbalances
- Tackling unemployment, particularly among the youth
- Consolidating national cohesion and unity
- Addressing transparency, accountability and impunity

Where are we? A new Constitution of Kenya

The parties agreed that the constitutional review process would begin around August 2008 and be completed within 12 months. However, it was not until February 2009 that

the Government appointed the Committee of Experts (CoE) on the constitutional review. The CoE began work in March 2009 and submitted a revised Harmonised Draft Constitution to the Parliament for deliberations in early January 2010. A referendum was held on 4 August 2010 and over 67 per cent of voters approved it. The new Constitution was promulgated on 27 August 2010.

The passing of a new Constitution in a peaceful referendum marks a major turning point in Kenya's history. It has given Kenyans a sense of optimism and raised hopes for the emergence of a new culture of governance. It has the potential to alter the practice of governance and politics and address political instability by promoting devolution, respect for minority rights and addressing problems of the marginalised groups -- particularly women and youth. Indeed, the passage of the new Constitution marks the beginning of reforms on important issues that have remained unaddressed for long.

Public dialogue and debate on what this new Kenya is and how it should be achieved must begin. Public vigilance at all stages of implementation will check forces that will likely continue opposing or constraining the new Constitution insofar as it threatens the status quo and opportunities to benefit from bad governance. Important also is that public expectations are high. Some are unrealistic, and yet they must be addressed. The public will be disillusioned once it sees a resurgence of a culture of 'business-as-usual'. Cohesion and a bi-partisan consensus within the Grand Coalition Government are important requisites for effective implementation of the Constitution.

The Constitution is not an end in itself; it is a means to an end. Agenda 4 items still need to be implemented to prevent the recurrence of political crises. Successful implementation of the KNDR agreements will certainly lay a strong foundation for creating a culture of constitutionalism and the rule of law. The challenges to implementation are thus many. The new Kenya will take long to establish; the old political culture will take long to destroy because it is deeply entrenched at all levels of society.

Institutional reforms

The partners agreed to undertake legal and institutional reforms within a year, including police, judicial, civil service and parliamentary reforms. So far, only Parliament appears to have progressed in undertaking reforms to guarantee its independence and evolve effective and efficient mechanisms for making legislation. Parliament enacted its new Standing Orders in 2009 and has been building the capacity of various departmental and special committees. Parliament is again preparing to introduce further reforms to align it with the new Constitution. But of great importance is the need to speed up the passage of new laws and to begin preparing the process to build the capacity of County Assemblies and the Senate, the two other institutions created by the new Constitution.

Reforms in the police, the judiciary and the civil service are behind schedule. However, both the Judiciary and the Police have comprehensive Task Force Reports with recommendations on how to reform these institutions. A Police Reform Implementation Committee is in place and has drafted several Bills in line with the new Constitution. Similarly, the Judicial Reforms Task Force report has made comprehensive recommendations on how to reform the institution. The new Constitution has provided for far-reaching reforms. The framework for institutional reforms is thus in place.

The spirit and values enshrined in the new Constitution should guide the process of institutional renewal. Chapter 6 of the Constitution on Leadership and Integrity should, in particular, guide staffing of new institutions to promote a new public service culture.

Land reform

Parliament passed the Sessional Paper on Land in December 2009. Its provisions have been entrenched in the new Constitution. Entrenching the land policy in the new Constitution is an important achievement. Implementing the policy should begin in earnest to win back public confidence on political commitment to pursue land reform. Establishing the National Land Commission, for instance and consolidating land laws is critical for effective implementation of the policy

as well as peace building efforts in the areas affected by post-election violence.

Poverty, inequality and regional imbalances

The medium-term plan for Vision 2030 has enumerated policies to eradicate poverty and promote balanced development across regions. The new Constitution has also established a devolved structure of government and provided for 15 per cent of national revenue to be shared among county governments. This is an innovative strategy of addressing inequalities, particularly because county governments will be required to make their own development plans and legislation promoting their aspirations. In the meantime, the Government has increased allocations for the Constituency Development Fund to stimulate rural development. The Government also launched a National Economic Stimulus package in August 2009. However, the drought the country experienced in 2009 slowed economic growth, thereby affecting progress in local and national development.

Youth unemployment

The Government has taken several measures to address unemployment. These include financing a Technical, Industrial, Vocational and Entrepreneurship Training project to reduce the number of unskilled and unemployed youth. The Government established the Kazi Kwa Vijana programme and the Youth Enterprise Development Fund. Some of these interventions were meant to provide short-term solutions. Most of the jobs created were in the informal sector and were not skills-based. There have been allegations of corruption in some of these initiatives, which require audit and investigation. On the whole, the slow growth of the economy will hurt the informal sector and, therefore, affect the youth.

National cohesion and unity

The Government has constituted the National Cohesion and Integration Commission (NCIC) and the Truth, Justice and Reconciliation Commission (TJRC). These two bodies are critical

for promoting healing and reconciliation as well as national cohesion. Although TJRC should be playing an important role in this respect, it has suffered credibility challenges after some victims of past human rights abuses filed a suit to stop its operations. Some Commissioners have since resigned. Generally, the success of TJRC is dependent on how it addresses these challenges. For its part, NCIC has effectively constrained the use of hate speech. This had a positive impact during the campaigns ahead of the referendum on the Constitution. Nonetheless, enforcing the hate speech law, prosecuting perpetrators of violence in line with recommendations by the Commission of Inquiry on the Post-Election Violence (CIPEV), and punishing all forms of impunity are critical for the success of these Commissions.

Transparency, accountability and the fight against impunity

The fight against impunity and corruption has gained momentum. Investigations on allegations of involvement in corruption by senior and influential politicians are taking place. However, the public is still disillusioned that no influential people have ever been successfully prosecuted and that politicians always get back to their position. Thus the failure to prosecute those involved in high level corruption will create the perception of absence of political will in the fight against corruption. It will give the impression that it is business as usual.

Chapter 6 of the new Constitution on Integrity and Leadership provides clear guiding principles on how to promote a culture of transparency and accountability in the public sector. It provides direction on appointment to senior public positions. This should be made an important reference point in the fight against corruption.

Agenda Item 4 Summary: What needs to be done

- Fast-tracking establishment, staffing, and financing of various Commissions
- Undertaking comprehensive judicial, police and civil service reforms

- Enacting legislation establishing county governments
- Aligning parliament's Standing Orders with the new Constitution
- Establishing the National Land Commission
- Aligning Vision 2030 with the new Constitution
- Generating new employment opportunities for the youth
- Ensuring the capacity of NCIC to promote national cohesion and unity
- Enacting legislation to establish an independent Ethics and Anti-Corruption Commission Enactment of legislation on leadership and integrity to support governance principles in the new Constitution

Conclusion

An unprecedented momentum for reforms has been witnessed in the past two years. Now is the time to move and translate vision of the KNDR into reality through the new Constitution. To turn this into a new beginning complete with a new culture, all Kenyans will have to embrace the values of the new Constitution. Indeed entrenching a culture of constitutionalism is a responsibility for all; it will turn the new vision into reality.

The new Constitution has opened an important window for institutional reforms. This window could shut early in 2011 as campaigns for the many electoral positions in the next general election begin. This calls for concerted effort on the part of the Government, political leaders, the civil society, the business community and religious leaders to advance implementation of key reforms and to ensure that leaders place the country's interests above individual ones. It also calls for vigilance and support by the international development partners, the African Union and its Panel of Eminent African Personalities and other friends of Kenya. The need for vigilance to prevent a reversal of the gains made and ensure attainment of the KNDR goal has never been greater.

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Attorney General, Kenya

Siri WALT

Embassy of Switzerland,
Kenya

Ngunjiri WAMBUGU

Executive Director, Change
Associates Trust, Kenya

Vincent WAMBUGU

Secretary General, Kenya
Episcopal Conference

Maina WANJIG

Office of the Vice President,
Kenya

L. Muthoni WANYEKI

Executive Director, Kenya
Human Rights Commission,
Kenya

Angelina WAPAKHABULO

High Commissioner of
Uganda, Kenya

Halakhe WAQO

Commissioner, National
Cohesion and Integration
Commission, Kenya

Glen S. WARREN

Embassy of the United States
of America, Kenya

Theresa WARSECHA

International Crisis Group,
Kenya

Steven WEAVER

Canadian International
Development Agency, Kenya

Noah WEKESA

Minister for Forestry and
Wildlife, Kenya

Shinji YAMADA

First Secretary, Embassy
of Japan, Kenya

Yoichiro YAMADA

Minister/Deputy Chief of
Mission, Embassy of Japan,
Kenya

Taye-Brook ZERIHOON

Assistant Secretary-General
for Political Affairs, UN
Department of Political
Affairs, New York

Johannes ZUTT

Country Director,
World Bank, Kenya

Annex III**Biographical
Notes of Speakers****Opening Session Speakers****Kofi Annan**

Chair of the Kofi Annan Foundation and the African Union
Panel of Eminent African Personalities

Kofi A. Annan was the seventh Secretary-General of the United Nations, serving two terms from 1 January, 1997 to 31 December 2006 and was the first to emerge from the ranks of United Nations staff. In 2001 Kofi Annan and the United Nations were jointly awarded the Nobel Prize for Peace with the citation praising his leadership for 'bringing new life to the organisation'. Since leaving the United Nations, Kofi Annan has continued to work on mediation and global conflict resolution through the Kofi Annan Foundation, with particular emphasis on Africa and African issues. In Kenya in early 2008, Mr Annan led the African Union's Panel of Eminent African Personalities to help find a peaceful resolution to the post-election violence.

In addition to his work with the Kofi Annan Foundation, Mr Annan serves as the Chair of the Africa Progress Panel (APP), the Alliance for a Green Revolution in Africa (AGRA), as well as being an active member of the Elders. He is also a Board member, Patron or Honorary member of a number of organisations.

Raila Odinga

Prime Minister of the Republic of Kenya

Born in Maseno, Nyanza Province of Kenya, the second son of nine children of the late Jaramogi Oginga Odinga and Mama Mary Odinga, one of Kenya's independent heroes and Vice President.

After attending Kisumu Union School, Maranda High School and the Herder Institute in Leipzig, Germany Mr Odinga spent 1965 to 1970 at the Technical University (Otto Von Guericke), Magdeburg, in Germany leaving with a Master of Science degree in Mechanical Engineering (Special Field: Production Technology) and returning to Kenya to join the University of Nairobi - Department of Mechanical Engineering, where he taught until 1974. In 1975 - 1982 he served as the Deputy Director of the Kenya Bureau of Standards. He attended courses at the British Standards Institution in London, the National Bureau of Standards, Washington DC and the University of Denver, Colorado and has several publications, both technical and political to his credit. Raila was elected Party Leader of the NDP and was the Party's Presidential Candidate in 1997 General Election, coming third in a field of fifteen (15) candidates.

In 2002, Raila introduced coalition politics in Kenya and agreed to merge NDP and KANU. Raila was elected as Secretary General of the new party, and subsequently, the Minister for Roads, Housing and Public Works in the Government of Kenya 2003.

In September 2007, Raila was nominated through secret balloting during the Party's Special National Delegates convention to be the ODM's Presidential candidate held at Kasarani Gymnasium on September 1, 2007. Following the political crisis that was triggered by the 2007 Presidential Elections in Kenya and the subsequent mediation of H.E. Kofi Annan, H.E (Rtd) President Mkapa and Madam Graça Machel, a Grand Coalition Government was formed, and Raila became the second Prime Minister of the Republic of Kenya.

Keynote Speakers

Linus Gitahi

Chief Executive Officer of the Nation Media Group

Linus Gitahi has been the Nation Media Group's (NMG) Chief Executive Officer since November 2006 which he joined after a long career as a senior executive with pharmaceutical giant GlaxoSmithKline (GSK) in East and West Africa, the Middle East and Europe. He has previously served as the Managing Director of GSK West Africa since 2003 and based in Lagos. He had served the company previously in Nairobi as General Manager for Consumer Healthcare for East Africa and the Indian Ocean Islands. He was also Head of Africa's Consumer Marketing and has held other marketing positions since 1989 when he first joined GSK.

Mr Gitahi holds a MBA degree from the United States International University (USIU) and a Bachelor of Commerce Degree (Accounting) from the University of Nairobi.

Kenneth Marende

Speaker of the Kenya National Assembly

Kenneth Marende is the Speaker of the Kenya National Assembly and Chair of Parliamentary Service Commission. He is an Advocate of the High Court of Kenya since 1979. He holds a Bachelor of Laws (Honours Degree) from the University of Nairobi and a Diploma in Laws from the Kenya School of Law.

Kenneth Marende was elected to Parliament in 2002 (9th Parliament) on a NARC Party ticket and re-elected December, 2007 (10th Parliament) on an ODM Party ticket. During the 9th Parliament, he served in the Departmental Committee on Administration of Justice and Legal Affairs, the Standing Orders Committee, and the Parliamentary Select Committee on Constitutional Review. He also served as Chair of the Sub-Committee of the Legal Affairs Committee that worked on essential reforms to the Constitution of Kenya.

Kalonzo Musyoka

Vice-President of the Republic of Kenya

Stephen Kalonzo Musyoka is a Kenyan politician, currently serving as Vice President of Kenya. Musyoka served in the government under President Daniel Arap Moi and was Minister for Foreign Affairs from 1993 until 1998; subsequently, under President Mwai Kibaki, he was Minister of Foreign Affairs again from 2003 to 2004, then Minister of the Environment from 2004 to 2005. He was a candidate in the 2007 presidential election, after which he was appointed as Vice-President by Kibaki in January 2008. He also serves as Chief Commissioner for The Kenya Scouts Association.

Master of Ceremonies

Michael Møller

Executive Director of the Kofi Annan Foundation

Michael Møller (Denmark) is the Executive Director of the Kofi Annan Foundation. Prior to assuming this position, he served for 30 years with the United Nations. He was the Secretary-General's Special Representative for Cyprus from 2006 till 2008 and Director for Political, Peacekeeping and Humanitarian Affairs in the Office of the Secretary-General from 2001 to 2006, serving concurrently as Deputy Chief of Staff for the last 2 years of that period. Between 1997 and 2001 he was the Head of the Office of the Under-Secretary-General for Political Affairs at UN headquarters in New York. He served in different capacities in Iran, Mexico, Haiti and Geneva.

Moderators

Julie Gichuru

TV host and Group Business Digital Manager of Royal Media Services

Julie Gichuru is a TV Host and Group Business Digital Manager at the Royal Media Services (RMS).

Ahead of the constitutional referendum vote in August 2010, Julie hosted Eye on Katiba, a talk show focused on providing information on the proposed constitution. Julie is also responsible for spearheading RMS's move towards establishing a global presence through the internet and raising revenue through digital platforms. Previously Julie was Current Affairs Editor, News Anchor and Talk Show Host at NTV, Nation Media Group where she was in charge of all editorial content of current affairs programmes as well as current affairs elements of the news.

Mugo Kibati

Director General of Vision 2030

Mugo Kibati is the Director General, Vision 2030 Delivery Secretariat, which is responsible for spearheading the implementation of the Vision 2030 – The national blueprint and strategy aimed at making Kenya a newly industrialized, middle income country capable of providing a high quality of life for all its citizens by the year 2030.

He is the Founder of Miliki Ventures (a strategy execution firm). As Group Managing Director and Chief Executive Officer of East African Cables, Mugo transformed a small Kenyan company into a regional blue chip firm with presence in South Africa, Uganda, Tanzania and Rwanda. Past experience includes marketing and engineering roles at Lucent Technologies in the US, Bamburi Cement (Lafarge Coppee) and Kenya Petroleum Refineries (Shell Petroleum) in Mombasa, Kenya.

In addition to several corporate board positions, Mugo was until recently the National Deputy Chair of the Federation of Kenya Employers, a Director of the Kenya Association of Manufacturers, an Alternate Director of the East African Business Council and a Director of the Kenya Private Sector Alliance. Mugo is also the Vice Chair of Mombasa Polytechnic University Council.

Richard Leakey

Former Head of Civil Service

Richard Leakey has had several careers that engaged him in palaeontology, anthropology, museum administration, conservation, politics and government administration. He has published a number of scientific and popular books as well as presenting television documentaries. He currently serves as Chair for Transparency International – Kenya, Chair of WildlifeDirect and he holds a position of Professor of Anthropology at Stony Brook University in the USA. Dr. Leakey is also working to develop a major new initiative to extend research into the origins of our species through the international Turkana Basin Institute in Kenya.

In the mid 90's Dr Leakey became more involved in Kenyan politics, serving as Secretary General of Kenyan opposition party Safina. In December 1997, he was elected to an opposition seat in the Kenyan parliament. His political career culminated in 1999 When then-president Moi appointed him head of Kenya's Civil Service and of a so-called "Dream Team" of technocrats assembled from various fields and backgrounds to tackle management, corruption, and reorganisation issues within the Kenyan government. He stepped down from this position in 2001. Dr Leakey was elected a Fellow of the Royal Society in 2007 and holds a number of honorary degrees and awards that recognize his contributions, including the honorary Doctor of Science from Wageningen University.

Beatrice Marshall

Senior News Anchor of Kenya Television Network (KTN)

Beatrice Marshall is a career journalist with over a decade of local and international broadcast experience. She is KTN's Senior News Anchor and an Associate Editor in charge of Diplomatic and Regional affairs.

As a young journalist she covered the opposition and civil society agitation for democracy. Over the years, she has covered Kenya's major political events, from the transition to multi-party democracy to the 2007 political crisis and its aftermath. During the post election crisis in Kenya in 2008, Beatrice worked closely with various non political stakeholders to ensure that sustained pressure was applied to resolve the political stalemate.

As a regional correspondent for KTN, Beatrice has covered the civil wars and famine in Somalia and the Sudan, and various regional leaders' initiatives to find lasting peace in the Great Lakes and Horn of Africa region.

L. Muthoni Wanyeki

Executive Director of the Kenya Human Rights Commission

L. Muthoni Wanyeki is the Executive Director of the Kenya Human Rights Commission (KHRC), a national, non-governmental organisation (NGO). She was the Executive Director of the African Women's Development and Communication Network (FEmNET) for seven years. She serves as a regional advisor/Board member to several Kenyan, African and international organisations including: the African Women's Development Fund (AWDF) in Accra; the African Women's Fellowship Programme and African Leadership Centre (ALC) of the Conflict, Security and Development Group (CSDG) at King's College London (KCL); the Afrimap and Justice Initiative-Africa programmes of the Open Society Initiative (OSI), Johannesburg and Abuja; Article 19, London; the Forum International de Montréal; the Global Fund for Women, San Francisco; and the Institute of Economic Affairs (IEA), Nairobi.

Panellists

Abdullahi Abdi

Chair of National Governing Council, NEPAD-APRM

Mr Abdi is not only the Chair of the National Governing Council, NEPAD APRM, but also of the National Muslim Leaders Forum and Consortium for Empowerment and Development of Marginalised Communities. He is also a member of the African Council of Religious Leaders, Inter Religious Council of Kenya and URAIA Programme Steering Committee.

Atsango Chesoni

Vice Chair of the former Committee of Experts on Constitutional Review

Atsango Chesoni is a lawyer who also holds a Bachelor of Arts degree in English with a minor in African American studies from the University of Minnesota in the United States and a Bachelor of Laws Degree (LLB) Buckingham University in England. Until October, 2010, Atsango Chesoni served as the Vice Chair of the Committee of Experts on Constitutional Review, which was responsible for drafting Kenya's new Constitution. She has extensive experience working as a human rights monitor both at the national and regional levels. She has written extensively on human rights, constitutionalism, institutional reform, regionalism, women's rights, violence against women and gender mainstreaming, in Kenya, South Sudan and at the level of the African Union.

John Githongo

Chair of Inuka Kenya Trust

John Githongo is the CEO of Inuka Kenya Trust and Zinduko Trust and head of Twaweza in Kenya. He holds an Honours degree in Economics and Philosophy from the University of Wales and an Honorary Doctorate from the Open University. In the past he has served as Vice President of Policy and

Advocacy, World Vision International and Senior Associate Member of St Anthony's College Oxford, with whom he is still associated as a Senior Common Room Member. He served as Permanent Secretary, Office of the President of Kenya between 2003 and 2005. Prior to that he was a director of Transparency International-Berlin and Executive Director of Transparency International-Kenya.

Ahmed Issack Hassan

Chair of the Interim Independent Electoral Commission (IIEC)

Ahmed Issack Hassan was appointed the Chair of the Interim Independent Electoral Commission (IIEC) in 2009. The interim Commission was established following the disbanding of the previous electoral body following the disputed presidential elections in 2007 and the resultant post- election violence that followed.

Between 2000 and 2005 he served as a commissioner with the Constitution of Kenya Review Commission. He then served as a legal consultant to the United Nations Political Office for Somalia in the training of Somalia parliamentarians in 2006, as well as a legal consultant for UNDP-Somalia Constitution Making Project.

Mr Hassan is a lawyer by training and an Advocate of the High Court of Kenya and has been practicing law since his admission to the Bar in February 1995.

Hassan Omar Hassan

Commissioner of the Kenya National Commission on Human Rights

Commissioner Hassan Omar Hassan holds a Bachelors of Law degree (LLB) from Moi University, Kenya. He was actively involved in human rights advocacy and training under the Supreme Council of Kenya Muslims (SUPKEM), the Muslim for Human Rights (MUHURI) and the Kenya National Students Union (KENASU) where he served as Chair. He received training on governance and democracy from the Les Aspin Centre for Government, Washington DC, USA.

Commissioner Hassan was founder and board member of both the Muslim Consultative Council (MCC)-a human rights and constitutional change lobby group and National Coordinator of the Muungano wa Mageuzi (Movement for Change) lobby group which advocated for the expansion of democratic space in Kenya in the period leading to the 2002 General Election.

Martha Karua

Gichugu Member of Parliament

A graduate of Law from the University of Nairobi, Martha Karua has served in several positions and was the first female lawyer to be elected to the Kenyan Parliament. She was the Minister for Justice, National Cohesion and Constitutional Affairs. Karua was a leading crusader for returning Kenya to a multi-party state, widening democratic space and gender issues. As a legal practitioner she was involved in championing human rights through public interest litigation, lobbying for laws to enhance and protect women's rights through her work with various women's organisations particularly the International Federation of Women Lawyers-Kenya and the League of Kenya Women Voters.

George Kegoro

Executive Director of International Commission of Jurists-Kenya Chapter

George Kegoro is the Executive Director of the Kenyan Section of the International Commission of Jurists. Kegoro is an advocate of the High Court of Kenya and served as Secretary to the Commission of Inquiry into the Post Election Violence in Kenya in 2008. In 2004, he served as Joint Secretary to the Commission of Inquiry into the Goldenberg scandal. Previously, Kegoro was the Secretary of the Law Society of Kenya and also worked as a State Counsel in the office of the Attorney General with responsibilities for legal research for purposes of law reform.

Mzalendo Kibunjia

Chair of the National Cohesion and Integration Commission

Since September 2009 Mzalendo Kibunjia has been the Chair of the National Cohesion and Integration Commission (NCIC) in the Ministry of Justice, National Cohesion and Constitutional Affairs. Before his appointment as the Chair of the NCIC Mzalendo Kibunjia was the Director of Museums, Sites and Monuments at the National Museums of Kenya with 22 years experience in heritage management, research and university teaching.

Mzalendo Kibunjia was the Secretary of the National Taskforce that developed the criteria and modalities of honouring National Heroes and Heroines that presented its report to the Ministry of National Heritage and Cabinet in August 2007.

He Studied History at University of Nairobi in 1986, and attained a Masters degree at University of Wisconsin Milwaukee and Doctor of Philosophy (Ph.D.) in Anthropology at Rutgers, the State University of New Jersey, USA.

Mutula Kilonzo

Minister for Justice, National Cohesion and Constitutional Affairs

Kilonzo is the Minister for Justice, National Cohesion and Constitutional Affairs in the Cabinet of the Republic of Kenya. He was a member of the Dialogue Team in the KNDR. He has been a Member of Parliament since 2003, a nominated MP since 2007 and as elected MP for Mbooni Constituency. He served as Chair of the Law Society of Kenya 1983-1985 and appointed Senior Counsel of Kenya under the Advocates Act since 2003. He is a former Member of the International Bar Association and African Bar Association. Kilonzo is an advocate of the High Court of Kenya and holds a 1st Class Honours Degree in Law from the University of Dar-es-Salaam, Tanzania.

Francis Kimemia

Permanent Secretary, Ministry of State for Provincial Administration & Internal Security

Francis Kimemia has had a 30 year comprehensive career in public administration, development, peace and security management from headquarter to the grassroots. He is currently overseeing ongoing police reforms and restructuring provincial administration institutions and involved in peace, disarmament and reconciliation process creating over 100 district peace committees city wide and strengthening community (democratic) policing, rule of law and civic virtues. Francis holds a bachelors degree in Political Science, Public Administration and an MBA.

Martin Nyongesa King'asia

Chief Radio Producer of Kenya Broadcasting Corporation (KBC)

Martin Nyongesa King'asia has been the Chief Radio Producer and head of KBC's national service- Kiswahili service Radio (Idhaa ya Taifa) since 2009. He is also a renowned radio producer and prime time radio news presenter at the station. Prior to this, he was head of the station's current affairs section between 2005 and 2008. He holds a Diploma in Radio Production (KIMC, Nairobi-1991), an advanced professional training in news and current affairs/computer aided radio (Cologne, Germany-1997) and eight other assorted certificates in Broadcast journalism/management. He previously worked for the BBC Kiswahili Service in London between 1999 and 2001.

Paul Melly

Deputy Chair and Chief Strategist of Standard Group

Paul Melly is presently the Deputy Chair and Chief Strategist of Standard Group a leading media house. Previously, he served for 9 years as the Chief Executive of the Capital Markets Authority, a regulatory public agency. He holds a Masters Degree in Accounting and Finance.

Kathurima M'Inoti

Chair of the Kenya Law Reform Commission

Kathurima M'Inoti holds a Bachelor and Master of law degrees from the University of Nairobi, Kenya. He is an Advocate of the High Court of Kenya. He is also a former lecturer in the Department of Public Law at the University of Nairobi.

Mr M'Inoti is a Commissioner of the International Commission of Jurists, Geneva, Switzerland and the immediate former President of the Association of Law Reform Agencies of Eastern and Southern Africa (ALRAESA). He is also a member of the Executive Committees of the Commonwealth Association of Law reform Agencies (CALRAs).

At the Kenya Law Reform Commission Mr M'Inoti has been involved in the preparation of legislation for implementation of Agenda 4 Reforms and currently for the implementation of the new Constitution.

Abdikadir Hussein Mohamed

Chair of Constitutional Implementation Oversight Committee

Abdikadir Hussein Mohamed is a Kenyan politician and chair of the Constitutional Implementation Oversight Committee (CIOC). A member of Safina, Mohamed was elected to represent the Mandera Central Constituency in the National Assembly of Kenya in the 2008 parliamentary election.

Musalia Mudavadi

Deputy Prime Minister and Minister for Local Government

Mudavadi is the Deputy Prime Minister and Minister for Local Government, an elected Member of Parliament for Sabatia Constituency, the Chair – Party of the Orange Democratic Movement Kenya (2005), SUMMIT, the top most decision making organ. He is also the Chair of the Mudavadi Memorial Foundation and Member of the Kenya National Dialogue Reconciliation Team. Mudavadi was the Vice President of the Republic of Kenya and Minister for Transport and Communication in December 2002, Minister for Transport

and Communication from July 2001 to December 2002. He was also the Minister for Information, Transport and Communication from Sep 1999 to 2001. He was the Minister for Agriculture from January to September 1999. He was re-elected Member of Parliament for Sabatia Constituency in 1997 and appointed Minister for Finance from January 1993 to December 1997. Mudavadi holds a Bachelor of Arts, Land Economics (Hons.) M.I.S. K. (RV) from Nairobi University, Kenya.

Ababu Namwamba

Chair of the Parliamentary Committee for Legal Affairs and Administration

Pius Tawfiq Namwamba Ababu is a Kenyan politician. A member of the Orange Democratic Movement, Namwamba was elected to represent Budalangi Constituency in the National Assembly of Kenya in the Kenyan parliamentary election, 2007.

Ababu Namwamba is a Public Interest Attorney specialising in international human rights and constitutional law, and a columnist with a leading newspaper in Kenya. Ababu Namwamba is a Humphrey Fellowship (Fulbright) alumnus and holds a Master of Laws Degree in International Legal Studies from American University's Washington College of Law, a Bachelor of Laws Degree from the University of Nairobi and a Diploma in Legal Practice from the Kenya School of Law. He is currently the Chief Counsel at the Chambers of Justice, which is a Public Interest Foundation he founded in 2002.

Reverend Timothy Njoya

Minister of Presbyterian Church of East Africa

Rev Njoya is the convener of the Men for Equality with Women (MEW) lobby group which brings men together in support of equality for women.

Rev Njoya was the Dr E Johnson Scholar-in-residence at Knox College, at the University of Toronto in 1998 and received a Doctor of Divinity from the University. He trained in

theology and social sciences in Kenya and in the US. He is a prominent member of the Presbyterian Church of East Africa, which is affiliated to the National Council of Churches in Kenya. Since 1993, Rev Njoya has represented the church on the Board of Directors of the Centre for Governance and Development. He is also a member of the National Convention Executive Council.

Joseph Nyagah

Minister for Cooperative Development and Marketing

Joseph Nyagah was educated at Alliance High School, University of Nairobi (BA-Hons), and has an MBA from Kellogg Business School, Northwestern University in USA.

From 1973, he worked for JP Morgan Chase Bank (then the First National Bank of Chicago) in Nairobi, Chicago and London and was Assistant Vice President in-charge of Trade Finance in Africa. He then served as Kenya's Ambassador in Brussels, Belgium (EU, Belgium & Luxembourg) and chaired several ACP/EU committees in addition to bilateral work with Belgium and Luxembourg. Following his diplomatic service, he then served as the Managing Director and CEO of Kenya Airways, President of Africa Airlines Association (AFRAA), Acting Secretary General of AFRAA, President of GETS Marketing Company, Atlanta Georgia, USA and President of International Air Transport Association (IATA) Geneva, Switzerland.

Patrick Obath

Chair of Kenya Private Sector Alliance (KEPSA)

Patrick is Managing Consultant for Eduardo Associates, a private practice consultancy specialising in Energy, Oil and Gas, Health, Safety and Environment and cost optimisation in Maintenance Engineering Management and Health Management. Patrick retired from Shell recently having held the position of Special Projects Manager in the Shell Africa office since March 2008. Before this he was the Managing Director and Country Chair for Kenya Shell Limited and Country Chair for Shell Tanzania.

Prior to this Patrick has held many management positions in Shell and Shell advised companies in the areas of General management, Distribution, Engineering and Health Safety and Environment in Kenya, United Kingdom, The Netherlands and Malaysia.

James Orengo

Minister for Lands

James Orengo is the Minister for Lands. He holds a law degree from the University of Nairobi and was educated at Ambira Primary School and the Alliance High School. Originally from Ugenya constituency of Siaya District, Mr Orengo ran for the presidency in 2002 for the Social Democratic Party (SDP). At the December 2007 general elections, the SDP supported Raila Odinga of the Orange Democratic Movement (ODM). During the post-election crisis negotiations with the Party of National Unity, Orengo was part of the negotiating team and served as one of four spokesmen for the ODM.

Louis Otieno

Senior News Editor of K24 TV

Louis holds the position of Senior News Editor at K24 TV. Louis's career as a TV host began with a stint on Kenya's premier morning TV show – Good morning Kenya – which aired on the national broadcaster, he moved to Nation as Chief news anchor where he conceptualized and hosted several TV talk shows. Moving to KTN, Louis broke new ground by conceptualizing and hosting News line. In 2007 Louis moved to Citizen TV, where he again broke barriers by conceptualizing and hosting his self named show – Louis Otieno Live.

Louis holds a Bachelors degree in Communication Arts and Management and Development (BA) from Daystar University in Nairobi, Kenya. He is a member and former chair of the Kenya Media Network on Population and Development (KEMEP).

William Pike

Chief Executive Officer of the Nairobi Star and Director of Radio Africa

Since 2007 Mr Pike has been the CEO of the Nairobi Star Publications and a Director of Radio Africa, Kenya. From 1986 to 2007 Mr Pike was the Managing Director and Editor in Chief of the new Vision Printing and Publishing Corporation, Kampala, Uganda. Prior to that, he was based in London working as the Finance/Africa Correspondent for South Magazine, he reported widely on the financial and economical issues from a Third World perspective. He has worked as a freelancer for major media outlets such as The Guardian, Times of London, Financial Times, Economist, BBC World Service and CNN.

Mr Pike holds a Masters in African Studies from the School of Oriental and African Studies (SOAS), London and Bachelors in History from York University.

Samuel Poghio

Minister for Information and Communications

Samuel Poghio is the Minister for Information and Communications, having been appointed to this office in January 2008. He is an elected Member of Parliament of the Kenyan National Assembly and currently serving for the fourth term since he joined politics in 1988.

Samuel Poghio was a temporary speaker in the 2002-2007 parliament term, besides being on several parliamentary committees. Between the year 2000 and 2002, Samuel Poghio served as an Assistant Minister for Education, Science and Technology, a Member of the ACP/EU Joint Parliamentary Assembly and member of the Parliamentary Network of the World Bank.

Margaret Shava

Commissioner, Truth, Justice and Reconciliation Commission

Commissioner Shava was educated in law and democracy in the United Kingdom and has experience working in law, management and peacebuilding. An advocate of the High Court of Kenya, she has also practiced conveyancing and commercial law with a leading Nairobi law firm.

Commissioner Shava was a UNHCR Regional Senior Programme Officer from 1998 to 2003. She served within Kenya, the East Horn and Great Lakes Region; Geneva and Sudan, implementing UNHCR's core mandate of Protection, with regard to asylum seekers and refugees from the East Horn and Central Africa. In 2002 she managed the Refugee Status Determination (RSD) exercise for Eritrean refugees in Gedaref, North Eastern Sudan.

Ngunjiri Wambugu

Executive Director of Change Associates Trust

Ngunjiri Wambugu grew up in Nyeri County, went to primary school at Temple Road Primary School, and Nyeri High School. He later moved to Nairobi in 1993 to attend college (The Kenya Polytechnic).

In April 2008 he started Change Associates Trust (ChAT) whose primary focus is to provoke a national conversation about the cleavages that exist in society based on ethnic stereotypes, and the effect they have on national and local decisions in Kenya. Through ChAT Ngunjiri has been able to engage in local as well as national inter and intra-ethnic dialogue on the issue of tribalism, the progress of Agenda 4 items, the benefits of the new constitution, the effect of the ICC, Alcohol Abuse amongst the Youth, etc

Guest Speaker

Luis Moreno-Ocampo

Chief Prosecutor of the International Criminal Court

Mr Luis Moreno-Ocampo was elected the first Chief Prosecutor of the International Criminal Court in April 2003. From 1984-1992, as a Prosecutor in Argentina, Mr Moreno-Ocampo was involved in precedent-setting prosecutions of top military commanders for mass killings and other large-scale human rights abuses. He was the Assistant Prosecutor in the 'Military Junta' trial against Army commanders accused of masterminding the 'dirty war' and other cases of human rights violations by the Argentine military.

In 1992, Mr Moreno-Ocampo resigned as Chief Prosecutor of the Federal Criminal Court of Buenos Aires, and established a private law firm, Moreno-Ocampo & Wortman Jofre, which specialises in corruption control programmes for large firms and organisations, criminal and human rights law. Until his election as Chief Prosecutor of the International Criminal Court, Mr Moreno-Ocampo worked as lawyer and as Private Inspector General. He also took on a number of pro bono activities.

