

KENYA NATIONAL DIALOGUE AND RECONCILIATION MONITORING PROJECT*

AGENDA ITEM 4 LONG-STANDING ISSUES AND SOLUTIONS

Draft Report on status of implementation

January 2009

SUMMARY OF KEY FINDINGS

1. The following are the key highlights on the status of implementation of Agenda Item 4 – Long Standing Issues – of the Kenya National Dialogue and Reconciliation for the period between March 2008 and January 2009. The findings draw from case studies, baseline survey data, key informant interviews, secondary literature and media reports.

I. Undertaking constitutional, legal and institutional reforms

2. Constitutional reforms are at the core of implementing some of the aspects of Agenda Item 4. Without a new constitution, some institutional reforms may not be undertaken and Kenya's Vision 2030 may not be effectively implemented. .
3. A number of steps have been undertaken to enact a new constitution: In December 2008, constitutional review statutes -- the Constitution of Kenya (Amendment) Act, 2008, and Constitution of Kenya Review Act, 2008 -- were enacted and a Parliamentary Committee on Constitution Review constituted. In January 2009, Parliament initiated the process of selecting a committee of experts to help in the review.
4. There has been a time gap between the period the Coalition Government was constituted and the enactment of the constitution review statutes. This delay implies institutional reforms, though critical, will start late because some are predicated on a new constitution.
5. Parliament has also independently embarked on reforms. New Standing Orders that propose far-reaching reforms have been developed and adopted. Parliament

* Supported by a grant from Foundation Open Society Institute (ZUG)

finalised a Strategic Plan to guide its reforms. However, some of the proposals -- such as the constitution of committees - may face challenges at the implementation stage owing to additional committees in the new rules that double those in the current Standing Orders.

6. Four observations are pertinent. One, a new constitution is without doubt the gateway to many crucial reforms. Two, synergy between reforms in different institutions is critical for sustaining a reform momentum. What happens in one institution has an impact on other institutions. There is a need then to foster synergies in undertaking institutional reforms. Three, coordinating reforms – or reform initiatives – is important in achieving the desired impact. four, the reform agenda should be driven by the desired impact – which, in line with the goal of the National Accord, is sustainable peace, stability and justice for all through the rule of law and respect for human rights.

II. Tackling poverty and inequality, and combating regional development imbalances

7. Like other long-standing issues in Agenda Item 4, this may require a new constitution and policy directions. Notably, though it may take long for any interventions aimed at tackling poverty, inequality and development imbalances to have visible impact, planning for the impact must be explicit. In this regard, policy actions must be linked to the need to demonstrate results.
8. From the first quarter of 2008, a number of interventions have been undertaken to tackle poverty, inequality and development imbalances:
 - a. The Government created the Ministry of Development of Northern Kenya and other Arid Lands in March 2008 with a view to addressing the development challenges facing northern Kenya and other arid lands.
 - b. The budgetary allocation for the Constituency Development Fund increased during the 2008/2009 financial year. Constituencies are now allocated money on the basis of their poverty and development levels.
 - c. Kenya's Vision 2030, which is being operationalised through a five-year Medium Term Plan (2008-2012), has prioritised tackling poverty and inequality and addressing regional imbalances. The line ministries have developed their strategic plans to implement the respective strategies and projects.
9. Nevertheless, high poverty levels, inequality and regional development imbalances persist. Currently, Kenyans are grappling with the rising cost of essential commodities and famine threatening a third of its population. The Government's stop-gap measures to address these challenges have been riddled with allegations of corruption. They are seen as ineffective in addressing the fundamental causes of the problems.

10. Budgetary allocation to institutions that can effectively address regional development imbalances is a critical measure of progress towards tackling the problem. A new policy imperative is required to create the necessary conditions for tackling inequalities.
11. Priority should be placed on continuously communicating to the public communication about efforts to reduce regional inequalities and address poverty. This will stimulate national debate on solutions adopted, promote ownership of reform initiatives and build popular momentum.
12. Failure to address poverty and inequalities effectively cultivates feelings of exclusion, marginalisation and despair among citizens. These feelings almost certainly lead to conflict. One possibility is 'class-based' conflict, which could culminate in uncontrollable and far-reaching violence.

III. Tackling unemployment especially among the youth

13. The Kenya National Dialogue and Reconciliation process acknowledged the urgency and importance of addressing youth unemployment. This is because it threatens social and political stability and the very foundation upon which a nation is built. Youth unemployment was identified as one of the key factors behind the post-election violence. As such, prioritising addressing youth unemployment is critical to consolidating national stability and generational posterity.
14. A number of efforts have been undertaken to address this problem since the constitution of the Grand Coalition Government. These include:
 - a. *Youth Enterprise Fund*: The Government has significantly boosted allocation to the revolving loan facility from an initial Ksh1 billion to Ksh1.75 billion. Plans are under way to allocate a further Ksh500 million to the Fund in the 2009/10 financial year. Of the money allocated to the Fund, Ksh1.6 billion has been disbursed to over 55,000 youth enterprises, resulting in the creation of over 200,000 new jobs. The private sector has also set aside Kshs2.5 billion to boost the fund.
 - b. *Youth employment programmes*: The Ministry of Sports and Youth Affairs has also initiated a Youth Employment Marshall Plan, which aims to create 500,000 jobs for the youth each year, starting in January 2009.
15. Despite these efforts, youth unemployment persists. Job creation has not kept pace with the number of youth entering the market from schools and other training institutions every year. Further, efforts that seek to address unemployment among the youth narrowly focus on entrepreneurship without regard to the fact that not all youth are well organised to access the funds for entrepreneurship.

IV. Consolidating national cohesion and unity

16. Consolidating national cohesion is critical in forging ahead as one nation where everyone feels that he or she belongs, and that his or her contribution is important for the prosperity of the nation. It entails eliminating feelings of marginalisation, exclusion and discrimination, and therefore cultivating a sense of belonging and justice. Given the divisions that resulted from the post-election violence, consolidating national cohesion was prioritised as critical to foster nationhood.
17. As such, the following legislative initiatives have been undertaken to provide legal framework to guide the consolidation of national unity.
 - a. National Cohesion and Integration Bill, 2008 was enacted into law in December 2008. The law seeks to encourage national cohesion and integration by outlawing discrimination on ethnic grounds and create a commission to foster this.
 - b. Parliament passed the Truth Justice and Reconciliation Commission Bill, 2008, and it was signed into law in November 2008. The law seeks to address historical injustices but has been widely faulted for its contentious amnesty provisions that have been claimed could undermine the administration of justice.
18. In addition to these legislative initiatives, the President and the Prime Minister, together with a number of politicians, have held high-level meetings in Rift Valley Province to call for national reconciliation. Civil society organisations, including faith-based groups, have also undertaken activities to promote peaceful coexistence and national unity.
19. Nonetheless, these efforts have been ad hoc, uncoordinated and do not enjoy ownership by the targeted communities. Attaining national cohesion requires undertaking initiatives that would eliminate perceptions of exclusion on ethnic grounds, perceptions of marginalisation and development imbalances. Furthermore, national cohesion requires cultivating a sense of belonging and fostering equity and fairness in society. Though legislation is pertinent, it is not the panacea to national cohesion. It is only by promoting reforms to facilitate fairness, social justice and equality among citizens -- both at the local and the national level -- that the desired objectives can be met.

VI. Addressing transparency, accountability and impunity

20. The coalition government has been dogged by allegations of grand corruption. Scandals cover the length and breadth of the Government: from the maize shortage to the work permit saga at the Ministry of Immigration; from the sale of the Grand Regency Hotel to questionable spending at the Kenya Tourism Board; from the currency printing contract with De La Rue to the hijacked Ukrainian

vessel carrying arms; from the loss of billions of shillings at the National Social Security Fund to the billion-shilling oil scandal involving Triton Petroleum Company. The Government has launched investigations into some of these scandals and sent home some officials.

21. The fight against corruption has not, however, been proactive. The perceived lack of political will to tackle cases of mega corruption involving Government officials has further complicated this fight. It is apparent that corruption is institutionalised in the public sphere. Tackling corruption is critical to fostering public confidence in the Government's commitment to the reforms agenda.

VII. General conclusions

22. The stability and prosperity of Kenya depend on the successful implementation of issues outlined in Agenda Item 4. So far, there has been minimal progress on a number of these issues. Although this is attributable to the fact that some issues in this agenda can only be effectively addressed upon enactment of a new constitution, it is noteworthy that public perception of Government commitment to implementing aspect of this agenda item are as low as 30%.
23. Making significant progress in implementing Agenda Item 4, especially with regard to institutional reforms, depends to some extent on the enactment of a new constitution. Political will and cultivating the right perceptions of belonging and nationhood among the Kenyan people is critical for the realisation of the spirit of this agenda.

MAIN FINDINGS

INTRODUCTION¹

24. The National Accord recognises that the crisis triggered by the disputed 2007 presidential election results brought to the surface deep-seated and long-standing divisions within the Kenyan society which, if left unaddressed, threaten the very existence of Kenya as a unified country. Agenda Item 4 of the Kenya National Dialogue and Reconciliation process set out a coherent and far-reaching reform agenda to address the root causes of recurrent conflict and create a better, more secure and prosperous Kenya for all.
25. The long standing issues identified under Agenda Item 4 included:
- a) Undertaking constitutional, legal and institutional reforms;
 - b) Tackling poverty and inequality as well as combating regional development imbalances;
 - c) Tackling unemployment especially among the youth;
 - d) Consolidating national cohesion and unity;
 - e) Undertaking land reforms;
 - f) Addressing transparency, accountability and impunity
26. This report examines the status of implementation of each of the items outlined by the Kenya National Dialogue and Reconciliation process in the implementation matrix. It also assesses the challenges and likely obstacles to the implementation of Agenda Item 4, identifies opportunities and draws key conclusions. The findings, conclusions and recommendations draw from case studies, key informant interviews, a national baseline survey², secondary data and media reports.

STATUS OF IMPLEMENTATION

I. Undertaking Constitutional, Legal and Institutional Reforms

27. Constitutional reforms are at the core of implementing some of the aspects of Agenda Item 4. Without a new constitution, many key institutional reforms may not be undertaken and Kenya's Vision 2030 can not be implemented. A new constitution is critical for guaranteeing the stability and prosperity of Kenya.

¹ Adapted from Kenya National Dialogue and Reconciliation (2008), Statement of Principles on Long-term Issues and Solutions

² Undertaken by South Consulting in December 2008 for the purpose of monitoring implementation of the KNDR agreements

a) Constitutional Reforms

28. The Panel of Eminent African Personalities underscored a greater urgency in constitutional change to anchor key reforms in Kenya. The key steps outlined by the Kenya National Reconciliation and Dialogue process towards attaining a new constitution included:

- a) Parliament to enact a Review Statute including a timetable;
- b) Parliament to enact a referendum law;
- c) The preparation of a Draft Constitution in a consultative process with expert assistance;
- d) Parliament to approve the Draft Constitution;
- e) The people to enact a new Constitution through a referendum.

Progress towards constitutional reform

29. *Constitutional review laws:* Two crucial laws to jump-start the review process – the Constitution of Kenya (Amendment) Act, 2008 and the Constitutional Review Act, 2008 – were enacted in December 2008. A Parliamentary Select Committee on constitution review as envisaged in the Review Act was set up in December 2008 and a roadmap for undertaking the review process developed.

30. *Experts:* In December 2008, in line with sections 8 and 10 of the Constitution of Kenya Review Act, the Kenya National Assembly put out an advertisement inviting applications for appointment of the Director of Committee of Experts and for nomination to the Committee of Experts. On January 8, 2009, the Panel of Eminent African Personalities – through Chief Mediator Kofi Annan -- presented five names of foreign experts on constitutional review. The Parliamentary Select Committee will recommend three of the experts for approval by Parliament and subsequent appointment by the President.

31. *Consultation with stakeholders:* The Ministry of Justice, National Cohesion and Constitutional Affairs, the Parliamentary Committee on Administration of Justice and Legal Affairs held initial consultations with civil society and private sector representatives, on the review statutes in August and October 2008. Commitments were made to include recommendations on amendments to the Bills³.

32. *Referendum law:* A referendum has been provided for in the Constitution of Kenya Review Act, 2008, and the Constitutional of Kenya Amendment Act, 2008. There is thus no need for separate legislation.

³ Interview with member of Civil Society Congress and Member of Kenya Private Sector Alliance

33. *Efforts to fast-track the process:* Parliament was recalled early from recess to fast-track the constitutional review agenda to ensure that the timeframes envisaged in the review roadmap are adhered to. The Parliamentary Select Committee has set 2 February 2009 as the commencement date for the review process⁴.

Challenges and gaps

34. *Divisions within the Coalition Government:* The divisions that currently characterise the Coalition Government are likely to negatively impact on the review process. Each side to the Coalition wants the process to be undertaken from its point of view⁵. Media reports have shown that the coalition partners hold differing views on the content (devolution) and process⁶ of the constitutional review. In addition, the factional mobilisation that typifies legislation in Parliament could lead to the review process being politicised. Should this occur, the document may end up serving the interests of the political class instead of addressing the long standing issues affecting Kenyans⁷. It is important to caution that, the current power contestations and perceived lack of good faith between the Coalition partners could find its way into the review agenda and undermine the entire process – a situation reminiscent of the 2005 referendum⁸.

35. *Contentious issues:* Issues considered contentious during the 2005 referendum are also likely to be a problem in the review process. These include the powers of the Executive, the levels of Devolution, the Bill of Rights, land and Kadhis' Courts, among others. Coalition partners also have interpreted these areas differently. If consensus is not built around these issues, the differences could negatively affect the review process.

36. *Consultation with stakeholders:* Some actors have claimed that the Constitution of Kenya Review Act omits pertinent mechanisms necessary to facilitate meaningful consultation with stakeholders. Other than establishing a Committee of Experts, a Parliamentary Select Committee, and procedures for conducting a referendum, no framework for engaging stakeholders has been provided. It is feared that the review could become parliamentary and expert-driven, with the public and other stakeholders getting engaged only at the referendum stage⁹. The enormous powers of the Parliamentary Select Committee overseeing the review process are a source of disquiet. There are fears that these powers could fundamentally undermine

⁴ KTN Prime News

⁵ Constitutional Lawyer, Nairobi University

⁶ Kenya Television Network, Prime News, December 2008, 'Raila and Nyamweya on Constitution Review'.

⁷ Assertions by a constitutional lawyer working in Kenya

⁸ Former Constitution of Kenya Review Commission official

⁹ Assertions by a human rights lawyer working in Kenya

meaningful stakeholder participation – resulting in a process that is purely -driven by Parliament¹⁰.

37. *The referendum*: Some members of civil society and constitutional experts have claimed that the referendum may be divisive and based on partisan interests. If consensus on contentious issues is not built before going for a referendum, partisan interests could override substantive constitutional issues when voting on the new constitution – consequently compromising or stalling the reform agenda.¹¹
38. The Coalition partners agreed to have a new constitution in 12 months after enacting the review statutes. The process towards constitutional reform was expected to begin immediately after the formation of the Grand Coalition Government. Although some progress has been made towards constitutional reform, there was a significant time lapse of eight months from the time of forming the Coalition to the enactment of the review statutes to jump-start the process. This has slowed the review process. However, all is not lost. Sustained goodwill and consensus is essential in pushing the process forward. Most pertinent, a new constitution is mandatory in addressing the long-standing issues that threaten the very core of Kenya's nationhood. Particularly, some important aspects of institutional reforms hinge on having a new constitution.

b) The Judiciary

39. The Kenya National Dialogue and Reconciliation process prioritised a number of steps to reform the Judiciary. They include the following:
- a) Constitutional review to anchor judicial reforms, including financial independence, transparent and merit-based appointment, discipline and removal of judges, strong commitment to human rights and reconstitution of the Judicial Service Commission;
 - b) Enactment of the Judicial Service Commission Act, with provisions for peer review mechanisms and performance contracting;
 - c) Streamlining of the functioning of legal and judicial institutions by adopting a sector-wide approach to increase recruitment, training, planning, management and implementation of programmes and activities in the justice sector.

Progress in reforming the Judiciary

40. Essentially, some aspects of judicial reform are predicated upon a new constitution. As a result, given that a new constitution to anchor judicial reforms

¹⁰ A human rights officer

¹¹ Constitutional experts

has not been enacted, not much progress has been made in line with the steps envisaged by the Kenya National Dialogue and Reconciliation process.

c) Police reforms

41. The Kenya National Dialogue and Reconciliation process outlined a number of steps to reform the Kenya Police. These include:
- a) Constitutional review to establish an independent Police Commission;
 - b) Review and define the role of the Administration Police,
 - c) Review laws and issues related to security and policing, (including setting up an independent complaints commission, citizen oversight of police services, enhanced information disclosure, human resource management and capacity building) to make them consistent with modern democratic norms;
 - d) Finalisation and roll-out of the National Security Policy to enable relevant sectors to develop their specific sectoral policies;
 - e) Recruit and train more police officers to raise the police-to-population ratio to the UN standards.

Progress in police reforms

42. Comprehensive police reforms largely hinge on a new constitution. As such, since a new constitution is yet to be enacted, not much progress has been made to reform the police. Nevertheless, a few initiatives have been undertaken in line with the Kenya National Dialogue and Reconciliation process to reform the police.
43. *Civilian Oversight Board:* A Civilian Oversight Board was established in 2008. Nevertheless, it has been alleged that the formation of the Board originated from the Minister for Internal Security and that the Police were never meaningfully consulted. This has resulted into lack of ownership of the Board by the Police¹². Its legality has also been contested.
44. *Recruitment and training:* There have been attempts to recruit more police, albeit with allegations of corruption. These have undermined the process.
45. *Gender Taskforce:* In response to the verdict by the Commission of Inquiry into Post-Election Violence on the conduct of the police, particularly with regard to allegations of rape and defilement, a gender taskforce was established in October 2008 to look into the claims of gender-based violence.

¹² Programme Officer, Kenya Human Rights Commission

d) The Civil Service

46. Civil Service reform has been prioritised as a key aspect of addressing long-standing issues afflicting Kenyans. The Kenya National Dialogue and Reconciliation process outlined a number of steps pertinent in reforming the civil service. These include:
- a) Parliament to pass a Bill incorporating civil service reform measures from the past to the proposed draft constitutions;
 - b) To continue with on-going administrative and financial reforms;
 - c) Results based management and performance contracting to cover all persons paid by public funds;
 - d) Parliament to review the Anti-corruption and Economic Crimes Act, 2003, and Public Officer Ethics Act, 2003, on incomes, assets and liabilities with a view to establishing an efficient and devolved administrative, compliance and analysis of institutional framework;
 - e) Undertake constitutional and legal reforms to facilitate parliamentary vetting of senior public appointments;
 - f) New legislation on whistle blower protection, freedom of information and operationalisation of the Witness Protection Act, 2006;
 - g) Review recruitment legislation to institutionalise national character in the public service;
 - h) Review Standing Orders to ensure that membership of parliamentary oversight committees is based on competence and integrity.

Progress of implementation

47. Much of the civil service reforms largely hinge on a new constitution. Nevertheless, some steps are being undertaken to reform the civil service.
48. *Results-Based Management and Performance Contracting*: The Government has continued to put public servants on performance contracting and implement results-based management system.
49. *Witness Protection Act, 2006*: The Attorney General launched a programme in May 2008 to operationalise the Act.
50. *Freedom of Information Bil.*: Two drafts exist – A Private Members’ Bill and one sponsored by the Ministry of Information. The Ministry of Information plans to table the Bill in Parliament.
51. *Review of Standing Orders*: Parliament reviewed and adopted new Standing Orders on December 10, 2008. The new Standing Orders have provisions to ensure that parliamentary oversight committee membership is based on

competency and integrity. For instance, the new rules provide that members who have been mentioned adversely will not be eligible for nomination as chairpersons or deputy chairpersons of House Committees.

e) Parliament

52. The reform of Parliament has been noted as one of the key steps aimed at enhancing the quality of parliamentary debates and hence the effectiveness of the institution. The mediation team prioritised certain steps to be undertaken to reform Parliament. These include:

- a) Comprehensive review of parliamentary Standing Orders and procedures to enrich the quality and output of debates and strengthen multiparty democracy;
- b) Strengthening of Parliament's research centre;
- c) Introduction of live coverage of parliamentary proceedings and electronic voting;
- d) Enhancing Parliament's oversight role in the national budget;
- e) Review Standing Orders to create monitoring and implementation committee;
- f) Introduction of stricter and timelier deliberations on reports by institutions such as the Kenya Anti-Corruption Commission, the Kenya National Audit Office, the State Law Office, and Kenya National Commission on Human Rights;
- g) Strengthening organs of Parliament such as the Parliamentary Investment Committee to promote transparency, accountability in the utilisation of public resources;
- h) Improving transparency of MPs by creating a register of interests and opening up parliamentary committee work to the public.

Progress towards reforming Parliament

53. *New Standing Orders:* The new Standing Orders provide for far reaching reform of Parliament. All the reform items outlined above as envisaged by the Kenya National Dialogue and Reconciliation team have been captured in new Standing Orders. More importantly, the new Standing Orders seek to improve the quality and output of parliamentary debates. The rules also create an implementation committee and three investigative committees to foster accountability in the use of public resources. The orders introduce stricter timelines on processing Bills and provides for secret balloting. The Standing Orders further seek to foster accountability among Members of Parliament, they introduce live broadcasting proceedings and enhance public access to parliamentary debates. The National Assembly adopted the new Standing Orders on December 10, 2008 during the second session of 10th Parliament. The Standing Orders will come into force in the third session of the 10th Parliament.

54. It is noteworthy that the reforms of Parliament will depend on implementation of the new Standing Orders once they come into force.

Challenges and gaps

55. *Extent of implementability*: Parliament's reform agenda, as envisaged in Standing Orders, is overly ambitious. Some items are difficult to implement. The establishment of numerous parliamentary committees, almost double those in the current Standing Orders, is a case in point¹³.

56. *Coalition government*: Current divisions in the Coalition Government may hamper Parliament's reforms. These divisions have reportedly found their way into the House where factional politics characterise parliamentary debates and the work undertaken by respective committees, such as the Public Accounts and Public Investments committees, among others. These trends are likely to compromise the quality and output of parliamentary debates and undermine the attempts to foster transparency and accountability in the utilisation of public resources¹⁴. In addition, though the new Standing Orders require that the Chairperson of the Public Accounts Committee be the leader of Official Opposition, there is no such leader at the moment.

57. Parliament has taken the boldest steps towards reform so far. However, successful parliamentary reforms depend on the full operationalisation of the new Standing Orders as well as linking the initiative to the reform of other institutions. This is owing to independence of the institutions. In addition, attainment of a cohesive government and Parliament is pertinent to the success of the reform agenda.

II. Tackling poverty and inequality and combating regional development imbalances

58. The extent of disparities between the rich and poor, as well as the inequitable distribution of public resources between individuals, regions and along gender lines has been a cause for concern over the years. These disparities have been a major cause of social tensions in the country as was evident during the 2007 post-election crisis¹⁵.

59. The Kenya National Dialogue and Reconciliation process identified some key steps to addressing this phenomenon. The measures are also elaborated in Kenya's Vision 2030 and the first Medium-Term Plan, 2008-2012. These include:

¹³ Senior official, National Assembly

¹⁴ Political analyst

¹⁵ Medium Term Plan, 2008-2012

- a) Ensuring equity and balance are attained in development across all regions, including job creation, poverty reduction, improved income distribution and gender equity;
- b) Increasing community empowerment through devolved public funds for both social and income programmes and developing local capacity to manage devolved funds;
- c) Implementing policies and programmes that minimise the differences in income opportunities and access to social services across Kenya, with special attention to the most disadvantaged communities in the arid and semi-arid districts, urban informal settlements and pockets of poverty in high potential areas;
- d) Improving opportunities for disadvantaged groups and regions to create wealth through increased infrastructure spending on roads, water sewerage, communications and electricity that targets poor communities and regions;
- e) Increasing availability of affordable and accessible credit, savings programmes and appropriate technologies to create an enabling environment for poor communities to take part in wealth creation;
- f) Developing an affirmative action policy and enhancing the Women's Enterprise Fund;
- g) Improving health infrastructure in under-served areas through construction or rehabilitation of community health centres.

Progress towards tackling poverty, inequality and addressing regional imbalances

60. *Kenya's Vision 2030 and the first Medium-Term Plan:* Steps to address poverty, inequality and regional imbalances have been elaborately captured in Kenya's Vision 2030 and its first Medium-Term Plan. Various ministries have developed their five-year strategic plans based on the flag-ship projects elaborated in the first Medium-Term Plan.

61. *Regional imbalances:* The Government created the Ministry for the Development of Northern Kenya and Arid Lands. These areas have been marginalized by successive governments over the years. The Government also increased the budgetary allocation for the Constituency Development Fund, distributed based on level of development of respective constituencies and their poverty levels.

Challenges and gaps

62. *Poverty and inequality:* Whereas some attention has been placed on poverty alleviation, there are feelings that a huge gap still exists between the poor and rich in their access to political, civil and economic rights. There are large disparities in incomes and access to education, health and land, as well as to basic needs, including clean water, adequate housing and food, among others.

63. *Rising cost of food prices and famine:* Approximately 10 million Kenyans are threatened by starvation. A majority of poor Kenyans cannot afford essential goods due to their soaring cost. The Government has taken stop-gap measures to cushion Kenyans against the rising food prices and famine, but these have been shrouded in allegations of corruption – most notable is the maize scandal.¹⁶
64. Poverty alleviation and tackling of regional imbalances and inequalities have been prioritized in Kenya's long-term (Vision 2030) and medium-term development plans (First Medium-Term Plan, 2008/2012) as well as in individual ministry strategic plans. This implies that financial and personnel resources have been allocated to tackle this. However, there are feelings that poverty levels are still high and regional imbalances and inequalities persist.

III. Unemployment, particularly among the youth

65. Over the years, there has been growing discontent and despair among the myriad unemployed youth. These youth have been exploited by the political class for political expediency – an aspect that culminated into social and political instability of the country reminiscent of the scenes following the 2007 disputed presidential election results. In recognition of this fact, the mediation process prioritised certain steps aimed at creating employment for the youth. These include:
- a) Generating an average of 740,000 new jobs each year from 2008 to 2012.
 - b) Revitalising and expanding Youth Polytechnics in all districts to facilitate the training of young people in technical, vocational and entrepreneurial skills to enable them to participate fully in productive activities;
 - c) Rehabilitating youth empowerment centres and establish three new ones;
 - d) Developing and enacting the National Youth Council Bill;
 - e) Establishing youth enterprise and employment programmes to promote small and medium-scale enterprises as well as self-employment among the youth;
 - f) Increasing youth enterprise and development funds and putting in place mechanisms for easier access to credit and collateral.

Progress towards implementation

66. *Vision 2030 and First Medium-Term Plan:* The Government has prioritised youth unemployment in its long-term plan (Vision 2030) and medium-term plan (2008-2012). The Ministry of Youth Affairs has developed its five-year strategic plan in line with the projects and activities aimed at tackling youth unemployment in Vision 2030 and the medium-term plan.

¹⁶ *The Sunday Standard*, January, 11 2009 'Revealed: Kshs150 million maize scandal'

67. *Youth Enterprise Development Fund*: The Government has finalised a Youth Enterprise Development Fund Strategic Plan and Leverage Financing. So far, Ksh1.75 billion has been allocated to the Fund. The Government has also committed Ksh500 million to the Fund in the 2008/9 financial year. Over 55,000 youth enterprises have received loans of up to Ksh1.6 billion, resulting in the creation of over 200,000 new jobs.¹⁷ In addition, the private sector has set aside Ksh2.5 billion to boost the Youth Enterprise Fund. The Government created the Fund to provide the youth with affordable credit to start businesses. There is also a leverage financing partnership between the Youth Enterprise Fund and four leading financial institutions in the country -- Kenya Commercial Bank, Equity Bank, Family Bank and First Community Bank. Under this Fund, the Government and its partners have trained over 110,000 youth in entrepreneurship as well as facilitating them to access markets for their products. The Youth Enterprise Fund's Board of Trustees has entered into a Memorandum of Understanding with the Netherlands Development Organisation and the International Organisation for Migration to provide capacity-building support to the youth¹⁸.
68. *Youth employment programmes*: The Ministry of Youth Affairs has initiated a Youth Employment Marshall Plan, which aims to create over 500,000 jobs in the formal and informal sectors beginning January 2009.
69. *Youth capacity development*: The African Development Bank (ADB) approved a Ksh2.9 billion loan that targets the youth in Kenya. The money is expected to help finance a Technical, Industrial, Vocational and Entrepreneurship Training (TIVET) project in the country as a response to the problem of huge numbers of unskilled and unemployed youth. The loan will be channeled through investment programmes within the framework of the Kenya Education Sector Support programme 2005-2010 (KESSP), which aims to improve access, quality and relevance of skills¹⁹.

Challenges and Gaps

70. *Narrow focus*: There are concerns that the strategies aimed at addressing youth unemployment have tended to emphasise more on entrepreneurship yet not all youth are sufficiently organised to access the youth funds and engage in entrepreneurial activities. Thus, a multi-pronged approach that addresses the dynamics of youth unemployment is very pertinent to attaining the desired goal.

¹⁷ Presidential Press Service, December 10, 2008 'Youth Fund gets sector boost'

¹⁸ Ibid

¹⁹ *Daily Nation*, [2 January, 2009 'Job Creation: Youth get Kshs2.9 billion loan

71. *Expanding the job market*: The economy has not kept pace with the number of youth entering the job market. The rapid expansion of the education sector, which produces more youth every year, is unmatched by the size of the labour market.²⁰
72. The Government has prioritised youth unemployment in its long term plan – Vision 2030. A number of steps have been taken to facilitate the youth to engage in income-generating activities. However, high levels of youth unemployment persist. This poses a significant threat to social and political stability of the country as disillusioned and desperate youth could be recruited to cause instability.

IV. Consolidating national cohesion and unity

73. The mediation process prioritised consolidating national cohesion and unity and outlined steps pertinent in attaining this. They include:
- a) Finalising and supporting the enactment of the National Cohesion and Integration law;
 - b) Parliament and executive initiating and sustaining advocacy on ethnic and racial harmony;
 - c) Establishing and operationalising a policy and institutional framework for Peace-Building and Conflict Resolution Programme and Early Warning Mechanisms on social conflict and enactment of Alternative Dispute Resolution Bill;
 - d) Extending the District Peace Committee framework to the entire country and linking it to District Security Committees;
 - e) Finalising the Hate Speech Bill and reviewing the Media Act to control incitement attempts;
 - f) Undertaking civic education on ethnic relations;
 - g) Inculcating a civic culture which tolerates diversity and encourages inter-ethnic cooperation, through the school curriculum.

Progress towards implementation

74. *National Cohesion and Integration Act, 2008*: The law was enacted in December 2008. The Act seeks to encourage national cohesion and integration by outlawing discrimination on ethnic grounds and provides for establishment of National Cohesion and Integration Commission.
75. *Truth Justice and Reconciliation Commission Act, 2008*: Signed into law on November 28, 2008. The TJRC Act seeks to assess past human rights violations and other historical injustices with the view to bringing the perpetrators to account, while providing remedies to the victims.

²⁰ *The Standard, Financial Journal*, Dec 16, 2008, ‘Youth Fund Signs Deal to Export Local Labour’

76. *Enactment of the Kenya Communications Amendment Act, 2008*: Signed into law in December 2008. The Act seeks to regulate the broadcast media – though it has been faulted for seeking to infringe on media freedom.

77. *Peace building activities*: The President and the Prime Minister have held joint public meetings where they have urged Kenyans to coexist and live together in peace. Most notable was the joint rally held in March 2008 in Rift Valley Province, as well as the joint public meetings during public holidays. Civil society organisations, faith-based groups and private firms and individuals have been undertaking activities aimed at sensitising people on peaceful coexistence.

Challenges and gaps

78. *Narrow conceptualisation of national cohesion*: There has been little focus on aspects that promote national cohesion like actions that create the right perceptions and changing behaviour. These are pertinent in tackling issues that lead to feelings of exclusion and marginalisation and foster a feeling of belonging. Much of the focus has been on legislating.

79. *Laws*: Several commentators have pointed out that there are loopholes in laws enacted to consolidate national cohesion. This is arising from the poor quality debate of the bills in Parliament. The Truth Justice and Reconciliation Commission Act, 2008, has been claimed to contain controversial amnesty clauses that could hamper the administration of justice.

80. *Long-term strategy*: Concerns have been raised over lack of a clear doctrine and strategy to deliver National Cohesion in the short and long term. It has been particularly observed that there is no concrete programme on national cohesion²¹. Efforts aimed at consolidating national cohesion have been ad hoc and uncoordinated and are yet to cultivate a sense of ownership among Kenyans²².

81. *Government commitment*: There are perceptions that the Government is not committed to consolidating national cohesion. Reasons cited for this are varied and include *inter alia*:

- a) Failure to fill the position of Secretary for National Cohesion²³;
- b) Alleged failure by the Government to allocate resources in terms of funds and personnel to the docket to facilitate activities aimed at reconciling communities.

²¹ Ibid

²² Assertion by a constitutional lawyer working in Kenya

²³ Ibid

82. Consolidating national cohesion and unity is essential in guaranteeing stability and prosperity of the Kenyan nation. This hinges on the extent to which perceptions of marginalisation and exclusion are eliminated and a sense of belonging and togetherness cultivated among the citizenry. This entails addressing the root causes of such perceptions such as, inequality and inequity, regional development imbalances, and engagement in decision making. Though laws are important to anchor strategies aimed at achieving a cohesive and united society, they are not the panacea.

V. Land reforms

83. Land has been a major source of ethnic-related conflicts. These conflicts arise from perceptions by many Kenyans that the current land ownership system is unjust. The mediation team prioritised a number of steps that should be taken to address land problems in Kenya. These include:

- a) Constitutional review to address fundamental issues of land tenure and land use;
- b) Development and implementation of land policies, taking into account the linkages between land use, environmental conservation, forestry and water resources;
- c) Finalisation of the draft National Land Policy and enactment of attendant legislation;
- d) Establishment of transparent, decentralised, affordable and efficient GIS-based Land Information Management System and GIS land registry at the Ministry of Lands and at local authorities;
- e) Replacement of land ownership documents for owners of affected by post-election violence;
- f) Development of a National Land Use Master Plan, taking into account environmental considerations;
- g) Establishing a land use transformation unit in the Ministry of Lands to facilitate the implementation of the land reform programmes as outlined in the National Land Policy;
- h) Strengthening local level mechanisms for sustainable land rights administration and management;
- i) Finalising the Land Dispute Tribunal Act.

Progress towards land reforms

84. Although the Draft National Land Policy was completed in May 2007 it awaits Cabinet discussion and adoption. There has also been intense lobbying by large-scale land owners against the draft policy. The main point of contention has been the reduction of the lease period from 999 years to 99 years – an aspect that might have contributed to the delay in adopting the policy. Politicians and other

powerful individuals have also been accused of contributing to the delay in adopting the policy because they reportedly fear the reallocation of land they own or irregularly acquired²⁴.

VI. Transparency, accountability and impunity

85. The National Accord prioritised fostering increased transparency and accountability in the management of public affairs as one of the long-standing issues in Kenya. The steps recommended to achieve this objective include:

- a) Strengthening the policy, legal and institutional framework for increased public transparency and accountability, anti-corruption, ethics and integrity;
- b) Undertaking programmes to support improved prosecution and adjudication of corruption and economic crimes;
- c) Enhancing capacity and performance in investigations and asset tracing,
- d) Continuous monitoring of the Public Officer Ethics Act;
- e) Revitalising Public Financial Management, including that of devolved funds;
- f) Expanding the capacity of District Anti-Corruption Civilian Oversight Committees to monitor management of devolved funds and stigmatise corruption;
- g) Reviewing the effectiveness of the Public Procurement Oversight Authority;
- h) Undertaking structural reforms that focus on prevention, investigation, recovery of corruptly acquired assets;
- i) Reviewing the effectiveness of the Privatisation Commission;
- j) Fully operationalising and building the capacity of the Public Complaints Standing Committee;
- k) Finalising and operationalising the Governance, Justice, Law and Order Sector (GJLOS) policy framework and establishing a comprehensive GJLOS policy;
- l) Sustaining the African Peer Review Mechanism process by ensuring assessment of the Government.

Progress towards implementation

86. *Anti-corruption laws and institutions:* A number of laws exist to fight corruption. They include: the Anti-Corruption and Economic Crimes Act, 2003, and the Public Officer Ethics Act, 2003. At the same time, there are a number of institutions mandated to address issues relating to corruption. Most notable are the Kenya Anti-Corruption Commission and the National Anti-Corruption Steering Committee. The Government also put in place a Governance Action Plan, which set out time-bound and prioritised anti-corruption interventions in broad areas of prevention, investigation and strengthening prosecution capacity.

²⁴ Claims by a governor of the Kenya Private Sector Alliance

87. *Grand corruption allegations:* There have been allegations of rising grand corruption cases involving government officials²⁵. The following are some of the most notable cases:

- a) In July 2008, the Minister for Immigration was accused of giving work permits to foreigners against advice from senior ministry officials. The Kenya Anti-Corruption Commission detectives revealed an elaborate cartel of brokers who were making billions of Kenya shillings at the Ministry;
- b) In July 2008, the Minister for Finance, was accused of flouting public procurement rules and irregularly selling the Grand Regency Hotel;
- c) In October 2008, a saga surrounding the destination of a Ukrainian vessel that was hijacked by Somali pirates off the Kenyan coast with 33 T-72 Russian-made tanks, 23 aircraft guns and ammunition was reported. While the Kenya Government insisted that the weapons were for its military, there were allegations that the arms were imported on behalf of the Government of Southern Sudan;
- d) In September 2008, Finance minister Amos Kimunya denied allegations that a currency-printing contract was irregularly awarded to De la Rue. The Government was said to have lost billions of shillings in the deal.
- e) In October 2008, the National Social Security Fund was said to have lost Ksh3 billion in pensioners' funds through dubious investments, including the sinking of about Ksh1.5 billion in the stock brokerage firm, Discount Securities Limited, which has since been placed under statutory management.
- f) In January 2009, the Kenya Pipeline Company and Triton Petroleum Company Limited were at the centre of a scandal in which financiers risked losing up to Ksh7.6 billion;
- g) In January 2009, there were allegations that the Kenya Tourism Board managing director irregularly allocated Kshs 43 million to two private companies;
- h) In January 2009, it was reported that maize meant to cushion Kenyans against rising food prices and looming starvation had been allocated to briefcase millers and companies that are colluding with senior government officials. Allegedly, this maize could be sold to Southern Sudan at a higher price. Thus over Kshs 800 million is alleged to have been lost in the fraud.²⁶

88. *Steps taken by the Government:* Media reports have shown that the Government has launched investigations into these allegations. Some of the officials implicated have either been sent on compulsory leave or been dismissed to pave way for investigations. Notable among these is the Managing Director of the Kenya Tourism Board who was sent on compulsory leave in January 2009 to facilitate investigations over the use of Kshs35 million; in September 2008, there were

²⁵ *Daily Nation*, January 15, 2009 'Land of Scandals'

²⁶ *Daily Nation*, January 15, 2009 'Land of Scandals'.

attempts by the Minister for Labour to send the Managing Trustee of National Social Security Fund on compulsory leave. He eventually dissolved the NSSF board. In addition, in July 2008, the Kenya Anti-Corruption Commission began investigations into the Ministry of Immigration work permit saga and revealed that billions of shillings were being made from the scam. However, the Parliamentary Committee on National Security absolved the Minister for Immigration of any wrongdoing. The Parliamentary Accounts Committee is investigating the maize scandal (January 2009). In addition, a Commission which was set up to investigate the sale of Grand Regency Hotel in July 2008 submitted its findings to the President in October 2008 – but they have not been made public and no action regarding the sale has been taken.

Challenges and gaps

89. *Prosecution and recovery of assets:* Concerns have been raised that corruption cases are hardly ever concluded and no proper mechanisms are instituted to prosecute and recover public assets²⁷.
90. *Role of anti-corruption institutions:* Trends have shown that there is lack of initiative by the anti-corruption bodies to take a pro-active role in the fight against corruption.
91. *Political will:* Lack of political will has also been cited as a key hindrance to dealing with corruption cases. This is especially true of the mega scandals involving senior government officials and politicians. This situation has been aggravated by the limited checks and balances within the Grand Coalition.
92. Winning the war against corruption is pertinent in cultivating the confidence of the Kenyan people on the Coalition Government's commitment to address the fundamental issues affecting them. However, the rapidly rising cases of grand corruption implicating senior government officials have eroded the public confidence necessary for the Government's initiatives to succeed. There perceptions that there is lack of commitment towards fighting corruption and fostering accountability as well as eradicating the culture of impunity in Kenya. One can almost radically conclude that Kenya has lost the war against corruption - - and this has been very costly. As such radical measures need to be taken to re-engineer the fight against corruption if any meaningful gains are to be made and public confidence restored.

²⁷ Assertions by a member of the Civil Society Congress

GENERAL CONCLUSIONS

93. Successful implementation of Agenda Item 4 is crucial for the stability and posterity of Kenya. Vision 2030, the country's long-term development blue-print, prioritises the fundamental steps of Agenda Item 4. The Government is currently implementing Vision 2030 through a five-year Medium-Term Plan (2008-2012). However, the operationalisation is still at its early stages as the line ministries are still drawing their strategic plans to implement the projects and strategies outlined in the Vision.
94. Making significant progress on some aspects Agenda Item 4, especially institutional reforms, is predicated on enactment of a new constitution. This calls for fast-tracking the review process to anchor pertinent institutional reforms.

The Kenya National Dialogue and Reconciliation Monitoring Project

Agenda Item 4

Long Standing Issues and Solutions

Report on Status of Implementation

(Draft Matrix on Progress)

Issue	Expected Action	Timeframe	Progress towards implementation	Remarks
Constitutional reform	Consultation with stakeholders	Consultation launched and review statute enacted by end of August 2008	Initial consultations between civil society organisations and the Ministry of Justice, National Cohesion and Constitutional Affairs over content of the review statutes undertaken in August and October 2008	Consultation frameworks were said to be inadequate to facilitate meaningful engagement. There is need for measures to foster sustained engagement of all stakeholders throughout the process
	Parliament to enact constitutional review statute	Constitutional reform to be completed in 12 months from the date of enactment of statute	Review Acts – Constitution of Kenya Amendment Act, 2008 and Constitution of Kenya Review Act, 2008 enacted in December 2008	The time between formation of the coalition and the enactment of the laws was significant (8 months) hence delaying the process.
	Draft constitution prepared in a consultative process, with expert assistance		Process of selecting experts to assist in the review process instituted in December 2008	The process has been faulted for ignoring the requirement of gender balance – especially the experts proposed by the Panel. There is need for consideration of gender balance in this respect.
	Parliament to approve		Largely dependent on finalisation of the review process	The current factional mobilisation that characterises parliamentary debates on Bills could compromise or scuttle the process if consensus is not reached. There is need to build consensus on areas of divergence.

	People to enact through a referendum		Largely dependent on finalisation of the review process	Referendum could be divisive and driven by partisan politics as opposed to real constitutional issues. This could scuttle the process, especially if the principals do not build consensus on areas of divergence. There is need to build consensus on contentious issues before going for a referendum
Institutional reform: the Judiciary	Constitutional review to anchor judicial reform	Constitution to be adopted in 12 months	Partly dependent on enactment of a new constitution	Delay in enactment of a new constitution may delay some of the judicial reforms
	Enact Judicial Service Commission Act with provisions for: <ul style="list-style-type: none"> • Peer review mechanism • Performance contracting 		Draft Bill was finalised in May 2008 and awaits publication	The Bill captures issues on peer review but omits the performance contracting requirement. There is need to sensitise and build consensus with Judges on the need to embrace performance contracting as a means of enhancing efficiency in the delivery of services
Institutional Reform: the Police	Constitutional review to establish an independent Police Commission	Constitution to be adopted in 12 months	To some extent depends on enactment of a new constitution	Delay in enactment of a new constitution would derail police reforms
	Review laws and issues related to security and policing (including independent complaints commission, citizen oversight of police services, enhanced information disclosures, human resource management and capacity building) to make them consistent with modern democratic norms	Review process to be completed within 6 months	Police Oversight Board and a taskforce on gender have been constituted	There appears to be lack of ownership of the board by the police force because the Minister for Internal Security did not adequately consult them in its initiation. The Gender Taskforce has also not made any progress in undertaking its mandate and co-opted civil society agencies like Fida-Kenya have pulled out. There is need to cultivate a sense of ownership by meaningfully engaging with the police in the whole reform process
	Recruit and train more police officers to raise the police-to-		In June, additional police officers were recruited	This was marred by allegations of corruption and discrimination. There is need to institute an accountable,

	population ratio to the UN standard	Recruitment and training to be completed by 2012		fair and competitive recruitment system
Institutional reform: the civil service	Parliament to pass bill incorporating civil service reform measures from past draft constitutions	Review to be completed within 6 months upon enactment of a new constitution	Partly dependent on enactment of a new constitution	Delay in enactment of a new constitution may delay civil service reforms
	Appropriate constitutional and legal reforms will be undertaken to facilitate parliamentary vetting of senior public appointments	Performance contracting to be entrenched in the constitution	To be facilitated by a new constitution	Delay in enactment of a new constitution may delay this process
	New legislation on whistle blower protection, freedom of information and operationalisation of the witness protection Act 2006		Programme to operationalise the Witness Protection Act, 2006 was launched in May 2008	The full operationalisation of the Act is paramount in encouraging key witnesses to sensitive cases to provide crucial evidence.
	Review Standing Orders to ensure parliamentary oversight over membership of committees is based on competency and integrity		There are new Standing Orders that would become operational during the third session of the 10 th Parliament	This depends on operationalisation of the new Standing Orders
Institutional reform: Parliament	Comprehensive review of parliamentary standing orders and procedures to enrich quality and output of parliamentary debates and strengthen multi-party democracy	Review to be completed within 6 months	New Standing Orders adopted on December 10, 2008 and would become operational during the third session of 10 th Parliament.	The Standing Orders propose far reaching parliamentary reforms. Aspects of it such as number of parliamentary committees could be unimplementable. The reform could also be undermined by divisive politics and lack of political good will.
Land Reform	Constitutional review to address fundamental issues of	Land reform process to be factored in the	Some aspects to depend on enactment of a new constitution	Delay in enactment of the new constitution would derail land reforms

	land tenure and land use Finalisation of draft National Land Policy and attendant legislations	constitutional review process within 12 months	Awaits discussion and adoption by cabinet	It has taken too long to finalise the discussions around the draft land policy. Lack of political goodwill and interests of large-scale land owners have significantly derailed the process. There is need to design measures to build consensus on various areas of divergence
Poverty, inequality and regional imbalances	Ensure equity and balance are attained in development across all regions including in job creation, poverty reduction, improved income distribution and gender equity	Implementation to be reviewed within 2-3 years	Ministry for Development of Northern Kenya and other Arid Lands was established in April 2008. Kenya's Vision 2030 prioritises tackling poverty and addressing inequality and regional imbalances. The vision has been operationalised in the Five-year Medium term plan	There is need to allocate adequate resources in terms of finances and personnel to this ministry to enable it undertake its mandate The efforts need to target women and other disadvantaged groups
Unemployment particularly among the youth	Generate an average of 740,000 new jobs each year from 2008-2012	Review progress of implementation of the various measures within 12 months	The Ministry of Youth has also initiated a Youth Employment Marshall Plan, which aims to create over 500,000 jobs on both the formal and informal sectors beginning January 2009.	The high unemployment rate among the youth persists. Expeditious implementation of the Marshall Plan is pertinent in attaining the goal
	Youth enterprise fund to be increased and mechanisms put in place for easier access to credit and collateral		The fund has received a significant boost. So far Ksh1.75 billion has been allocated and Ksh500 million planned for the Fund this financial year. Private sector has set aside Ksh2.5 billion to boost the Youth Enterprise Fund	Not all youth are well organised to access this fund. As such measures should be undertaken to build the capacity of the youth on entrepreneurship including the need to organise themselves into groups to access the funds

Consolidating National Cohesion and Unity	Finalise and support enactment of the National Ethnic and Race Relations Bill by Parliament	National Ethnic Relations Bill to be passed by Parliament within 3 months	The Bill was debated on November 27, 2008	There is need to fast-track the enactment of the bill into law. Stakeholders concerns that the bill does not adequately capture the whole essence of consolidating national cohesion should be taken into account when undertaking any amendments
	Parliament and executive to initiate and sustain advocacy role on ethnic and racial harmony	Review progress in implementation of the various measures within 12 months	In March 2008, President Kibaki and Prime Minister Odinga held a joint public peace and reconciliation rally. Civil society organisations, the private sector are involved in peace building initiatives	The two Principals have not sustained their efforts in advocating peace and reconciliation through public forums. Civil society and private sector initiatives have not meaningfully engaged communities and hence the lack of ownership of the efforts by the respective communities There is need for sustained advocacy efforts on peace and reconciliation. These efforts must of essence meaningfully engage communities to foster ownership
	Finalise the Hate Speech Bill and review the Media Act to control incitement attempts		Communications of Kenya (Amendment) Act, 2008 enacted to instill responsibility in the media	The Act was faulted as having clauses that seek to curtail media freedom. There is need to look into the concerns raised by all the stakeholders when reviewing the Act.
	Operationalisation of the Truth Justice and Reconciliation Commission	The TJRC to complete its work in 2010	TJRC Act, enacted in November 2008	The Act has been faulted for containing contentious amnesty laws that could curtail administration of justice
Transparency, accountability	Strengthen and improve capacity of anti-corruption agencies and strengthen the	Review progress of implementation within 6 months	There was no data to indicate that any steps are being taken to strengthen the capacities of anti-corruption agencies and	Cases of grand corruption have continued to spiral. Within a year, the coalition government has been implicated in six mega corruption scandals.

y and impunity	laws to fight corruption ²⁸		laws. To the contrary, reports indicate a significant rise in corruption cases	<p>The fight against corruption has not been proactive</p> <p>The institutions charged with fighting corruption have limited capacity and lack prosecutorial powers.</p> <p>The rising levels of corruption is an indication that we have lost the war and this has been very costly</p> <p>The rising cases of corruption bedeviling the coalition have eroded public confidence in the Grand Coalition.</p>
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²⁸ See matrix by Kenya National Dialogue and Reconciliation