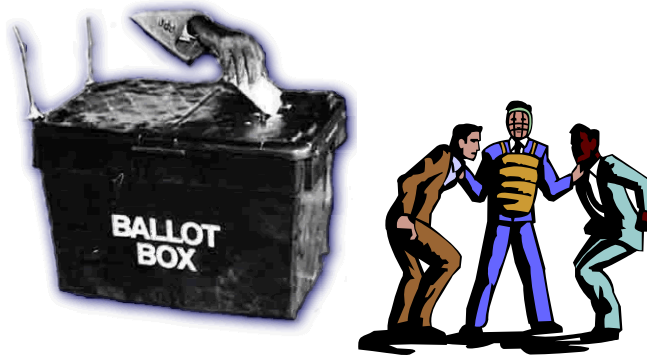


A Citizens Agenda for Political Dialogue following the Post 2007 Election Crisis In Kenya



Initiated to promote dialogue and a comprehensive approach to building peace, justice and truth by the following organizations

Concerned Citizens for Peace

Kenya Private Sector Alliance

The National Council of NGOs

Peace and Development Network - Kenya

The Media Council of Kenya

Maendeleo ya Wanawake representing Partners for Peace

Federation of Kenyan Employers

The Global Call to Action Against Poverty

And The Kenya Association of Manufacturers among others.

January 9th 2008

A. Citizen Agenda for a New Dawn For Kenya

Kenyans went to the polls on 27th December 2007 truly believing that their vote could make a difference. The process went fairly well until the Electoral Commission of Kenya (ECK), whether working on its own or in cahoots with others, displayed the ineptitude that resulted in serious doubts being cast on the credibility and validity of the final presidential election results. As a result of the disputed presidential poll, the country is now in a crisis. This is evidenced by violence, loss of life and property, disruption to economic activity and horrific images appearing in virtually every global media and brought the country's image into international disrepute.

At a time like this, we believe that it is important to have a vision of a different Kenya and use the recent opportunity of political dialogue, a lull in the communal violence, attention being paid by no less than five African Senior Statesmen and the global community in our country to achieve this.

We believe that with enlightened leadership on the part of H.E. Mwai Kibaki and Hon Raila Odinga with other national leaders, Kenya can still emerge from the current situation as a strong nation that has its pride of place among nations of the world. We can all return to one common purpose namely, **the building of a sovereign and remarkable country of outstanding people who all enjoy a high quality of life.**

It is within our grasp to have a Kenya that:

- **Exercises independence and Sovereignty:** We are patriotic and proud to be Kenyan. We govern ourselves and safeguard our territorial integrity;
- **Is remarkably well governed:** We welcome all to celebrate our natural endowment. we are well-governed, informed and achieve amazing results despite the challenges we have faced and continue to encounter. We deliver remarkable investment returns, are known for high standards and diligence globally and respect for the rule of law;
- **Is run by outstanding people:** Our diversity of culture and our values are our strength and wealth. We have a well developed human resource and place a premium on innovativeness and excellence;
- **Achieves a high quality of life for all:** We believe and act to achieve justice and equity for all, especially the very poor and those whose rights have been neglected;
- **And therefore, occupies a pride of place among other nations:** We are competitive, equitable and compassionate. We have a vision of where we want to be and all our efforts are focused on that vision. We are clear that this pride of place is 'earned';

A seven point citizens agenda for peace, truth and justice

Having carefully studied the complexity of the challenges facing our nation, the following seven issues should be discussed and resolved as part of the negotiation agenda:

1. **Restoring peace, reconciliation and national healing** – This will require all actors to work cooperatively to bring an immediate end to the violence, enable peaceful political activity, actively engage in reconciling communities and encourage peace initiatives.
2. **Trust and confidence building for the political players** – the current crisis has been precipitated by mistrust that has accumulated over time. Deliberate efforts need to be undertaken to rebuild trust and confidence between and among political players to enhance the capacity for dialogue and constructive engagement. All political players must be bound by the agreements reached in the negotiations.

3. **Election closure** – The disputed presidential poll has to be brought to closure if Kenyans are to have faith in the electoral process. This will require some form of agreement on the final presidential poll. Any rerun of the election will need to take account of the legal and constitutional implications that impact on the timing and eligibility for such an election.
4. **Composition and duration of a Government of National Unity** – Given the trends in both presidential and parliamentary results, a grand coalition or Government of National Unity will command a significant popular mandate and be well placed to set the pace for some of the deeper issues that have led to the current crisis. It is therefore necessary for the parties to agree the structure, character, and guiding principles for such a Government, as well as its duration. The duration will need to recognize the dispute as well as take account of the time required to put in place the required institutional reforms before the next election.
5. **Priority agenda for the Government of National Unity** – Given the history of mistrust and acrimony experience in the last coalition government, it will be necessary for the GNU to first agree the priority agenda for the government. Agenda must be publicly acknowledged and be the basis for holding the Government to account. The priority agenda should include a mechanism for responding to new developments. Key among the items to be included in the priority agenda include:
 - a. Constituting a body to carry out a comprehensive review of the election process, identify the reforms necessary to restore confidence and spirited public information, education and communication campaigns to reverse the negative perceptions emanating from the disputed poll.
 - b. Constitutional reforms to address some of the deep-rooted issues including an improved electoral framework, revised mechanisms for transfer of power, devolution and distribution of resources for equitable development, structure of Government and powers of the Executive;
 - c. Administrative and legal reform issues to address the weaknesses identified in the electoral process
 - d. The return of internally displaced persons and reconstruction
 - e. Priority initiatives to deliver equitable economic growth
 - f. A comprehensive framework to address land issues
 - g. An anti-corruption agenda and a robust transparent Public Accountability framework.
 - h. Establishing the truth of the allegations of all forms of ethnic cleansing and genocide by both PNU and ODM with a view to restitution and justice
6. **The next Presidential and/or National Elections** - The timing of the next Presidential and/ or National Elections should be agreed as part of the negotiated settlement.
7. **Global agenda to restore international respectability** – The country has suffered considerable damage from the post election violence. Deliberate efforts need to be made to restore our standing in the regional and international arena. A global agenda shared with all stakeholders should be agreed to form part of efforts and reclaiming our pride of place among nations

All Kenyans of goodwill are invited to discuss this framework and endorse it to make it a truly citizen agenda. We also invite friends of Kenya and our international partners to provide support to ensure that the aspirations included in this agenda are realized.

Despite this trying turns and the suffering by many fellow Kenyans, we remain positive and hopeful that Kenya can competently manage the present crisis and emerge a stronger nation.

We will vigilantly hold both the Party of National Unity and the Orange Democratic Movement accountable for the outcomes of the negotiations and the processes of implementation. We continue to remind all protagonists to avoid any actions that will erode the spirit of goodwill required for open, honest and principled negotiations.

The next few steps are critical for Kenya to be a country where democracy thrives, absolute poverty has been eradicated, there is respect for the rule of law, a robust political institutional framework and our economic growth improves the quality of life for all. Only then, will we be respected regionally, continentally and internationally.

Only then, with the words of our National Anthem will be proved to be true:

***O God of all creation
Bless this land and our nation
Justice be our shield and defender
May we dwell in Unity, Peace and Liberty
Plenty be found within our borders.***

We invite you to contribute to this Citizens Agenda by

- 1) Raising your voice and acting to stop the violence, promote reconciliation and tolerance and call for justice whose rights have been violated.
- 2) Adding your name to the signatories by emailing <newdawn@peaceinkenya.net
- 3) Visiting www.peaceinkenya.net
- 4) Visiting any of our offices

1 **Background Paper for the Citizen Agenda for Lasting Peace and Human Dignity**

An Introduction

Concerned Kenyan professionals voluntarily and quickly wrote this paper to inform the political dialogue between the Party of National Unity and the Orange Democratic Movement between January 8-9th 2008. While not all of the following analysis is endorsed in full by all of the initiating organizations, they would strongly recommend that Kenyan leaders and citizens read and discuss the ideas contained.

It has been offered as a contribution to deepening our national reflection of what went so horribly wrong with such a promising election and, as importantly, what the political leadership, Kenyan citizens and the international community need to do next.

An analytical framework to inform efforts at restoring peace and sustainable livelihoods for all

After a comprehensive civic education programme delivered over many years, expansion of the democratic space, and a vibrant campaign and voter education leading up to the elections, Kenyans went to the polls on 27th December 2007 truly believing that their vote could make a difference. The process went fairly well until the Electoral Commission of Kenya (ECK), whether working on its own or in cahoots with others, displayed the ineptitude that resulted in serious doubts being cast on the credibility and validity of the final presidential election results. The parliamentary results in most constituencies appear to have reflected the will of the people and deserve to be celebrated.

As a result of the disputed presidential poll, the country is now in a crisis that is evidenced by violence, loss of life and property, disruption to economic activity and horrific images appearing in virtually every global media and brought the country's image into international disrepute. The evidence of the crisis is clear to all:

- Close to 500 Kenyan's are dead, perhaps many more unknown;
- Over 200,000 Kenyan's, mainly women and children have been forced to flee their homes;
- People's, very many of them extremely poor, life-work and livelihoods have been destroyed;
- Business has come to a standstill with dire consequences on economic performance and in particular domestic revenue collection. A country that was proud of its recent economic achievements may now have to take out its begging bowl.
- Investor confidence in the country has evaporated overnight resulting in the diminution in the value of our national assets (falling exchange rate, securities, and some of the prized national assets that were due for sale to the public).
- The economic and democratic gains since 2002 are quickly being washed away and could be completely eroded by the absence of a political solution and continued mass action.
- The international image of the country continues to deteriorate as horrific images of chaos, death and destruction dominate the international media.

In order to support efforts aimed at restoring peace and human dignity, we, as citizens of Kenya, have come together to pool our collective professional experience, objective analysis and integrative complexity to set out an analytical framework that enables all actors to obtain a broader perspective of the present circumstances, likely outcomes and possible pathway to a positive future. This 'Citizens agenda for lasting peace and human dignity' is set out in this analytical framework, which includes the seven elements set out below:

- 1 **Key pre-election issues:** We highlight some of the key pre-election issues that are a feature of our society and based on how these were dealt with during the campaign period, may have accentuated divisions and continue to contribute to the hard-line positions taken by the major protagonists;
- 2 **The election process and its impact:** Here, we capture a synopsis of the election process and how it has impacted on the current situation;
- 3 **The case for negotiation for the two protagonists:** We present the propelling case for both President Kibaki and Hon Raila Odinga to come to the negotiating table;
- 4 **The path to, and consequences of failure:** We extrapolate how the current hard-line positions could pan out to what may appear to be short-term success for the protagonists but will ultimately lead to failure of Kenya as the nation we know today;
- 5 **Possible negotiation agenda:** We highlight the key issues that need to be negotiated to come to a settlement that will not only solve the current crisis, but also strengthen national institutions to guard against possible recurrence of similar situations in the future;
- 6 **Post-crisis negotiated scenario:** Predicated on successful negotiations, we paint a picture of how the present dark circumstances could transform into a possible desired future that we can all be proud of and earn Kenya pride of place among the international community.
- 7 **Proactive and Vigilant Civil Society:** Reclaiming the role of Religious Organisations alongside NGOs, CBOs, Professional Associations as a vibrant collective action movement that not only holds the Government to account on the negotiated settlement but also actively participates in promoting lasting peace and building a democratic, free, and just society.

In addition to these seven elements of the Citizen Agenda, we have also included a brief section on how this framework will be shared and disseminated to other actors to ensure that it gains acceptance as a truly popular agenda of the manner in which the people of Kenya would like our leaders to preside over the current crisis and governance stalemate.

1.1 **Key pre-election issues**

The current national crisis may be traced back to a number of historical issues that are a key feature of our society and which need deeper analysis and specific policies to manage them as they cannot be wished away. During the pre-election process, the key ones that were used to accentuate divisions and whip up emotions include:

- 1 **Transition failure:** The NARC Government that came into power in 2002 was elected on a reform platform to redress both the political and economic failures of previous Governments. Whilst there are some credible gains on the economic front, little attention has been paid to the building of a robust political institutional framework and restitutional justice. On the contrary, efforts at political reform and redressing historical injustices have been thwarted by the Government including in the lead up to the elections. The continued focus on the economic pillar with little regard for political reforms has left the country with a strong foundation on one side and a crumbling one on the other. The pursuit of an economic agenda at the exclusion of political reforms has been demonstrated to be unsustainable by the current crisis. This had already been foreseen as a possible outcome in "*Kenya at the crossroads: Scenarios for our Future*" published by the Institute of Economic Affairs in April 2000.

- 2 Class/ access to resources/ exclusion/ us and them: The issues of inequality and inequity were used to bring out class divisions and to highlight how some groups have been denied access to economic resources and thus continuing to exclude them from economic activity and further impoverishing them. These issues were targeted at particular regions (Rift valley, Nyanza, Nairobi, North Eastern and Coast provinces), as well as the youth. The culprits were identified as the ruling class who happen to comprise largely one community, as well as the Asian community particularly in Nairobi, Mombasa and Kisumu;
- 3 Ethnic tensions: Ethnic divisions go back to pre-colonial times and the country has yet to come to terms with the reality of our ethnic diversity and see this as a source of wealth rather than a basis for heightening divisions. Unfortunately, the election campaigns were characterized by a whipping up of emotions and 'demonising' of particular ethnic groups leading to the current rift in the country (one group as violent and hungry for power and any candidate from the community being unelectable; another as arrogant, selfish, domineering, and unwilling to share economic gains with any other community; yet another as corrupt or beneficiaries of corruption).
- 4 Disregard for the rule of law: In the lead up to the elections, we saw state-sanctioned disregard for the rule of law on the one part (whether this be Matatus, hawkers, and the doling out of development goodies), and violence visited upon opponents and their supporters with impunity. This may have further fanned the powder keg that ignited in the last days of the tallying process and escalated into a national crisis after the announcement of the final results.
- 5 Campaign financing resulting in strong vested interests in each camp which may be contributing to the hard-line positions taken.
- 6 Absence of apex focal point for a unified Civil Society: following the 2002 elections and subsequent formation of Government, shifting funding flows and key individual leaders to the Government, left the sector fractured. As a result, the traditional oversight role of the Civil Society was considerably undermined.

There is need to take cognizance of these issues and draw lessons on how their treatment, both in the past and in the lead up to the election may have contributed to the current crisis. More importantly, we must identify more responsible approaches for managing some of these deep-rooted issues especially in pre-election periods. Key amongst the approaches is establishing the institutional framework for policing the campaign process to ensure that these do not accentuate divisions and spread hate the way the last campaign did.

1.2 The election process and its impact

Since the late 90s, there has been a comprehensive programme of civic education mainly undertaken by Civil Society Organisations (CSOs), Religious Organisations with the support of various international Development Partners. This together with the voter registration campaign resulted in increased civic awareness by a large section of the population, and especially the youth. As a result, the number of registered voters increased from about 9m in 2002 to over 14m at the time of the election in 2007.

Civic and voter education contributed to the considerable improvement in democratic empowerment and the realization by the people of Kenya that they indeed had the power to determine how they are governed.

This civic awareness manifested itself in individual commitment and sacrifice by voters to turn-out in large numbers on election day to make their democratic choice. This also provided the point of individual involvement and responsibility for the present circumstances. As was evidenced on election day, most voters believed that they had fulfilled their civic duty and it was now up to the ECK to play its role of ensuring free, fair and transparent elections that would reflect the will of the people. This appeared to be going on well with the counting and public release of results. By the end of day on Friday 28th December, there appeared to have been acceptance that Hon Raila Odinga was poised to be the next President of Kenya and even those constituents who may have voted for the opposite camp appeared to be resigning themselves to such an eventuality. And then the disputes begun to emerge on Saturday 29th December and by Sunday 30th, the election results appeared to have taken a dramatic turn in favour of the incumbent. Going by the objections that had begun to be raised, the delays experienced in announcing some results, and the pictures of chaos emerging from various tallying centres, the credibility of the results, particularly the presidential poll, begun to be put in question. The circumstances under which the final presidential results were announced and subsequent hurried swearing-in did nothing to allay the fears that had been raised about the results.

Before and after the announcement of the final results, a number of people came forward to present evidence which indicated that the final result announced by ECK may not have been accurate and therefore subverted the will of the people. Those who thought that the results had robbed them off their democratic choice had already begun to express their anger and frustration even before the final announcement and this has now culminated into national crisis of a scale never imagined in this country. Suddenly, this became a traumatic incident that we had all individually been involved in through our voting as well as the debates we were having and the inner sentiments we harboured about the possible outcomes. This personal involvement by virtually every member of the populace perhaps explains why the circumstances have gripped the nation the way they have.

A number of conclusions can be made of the election process and its impact:

- Individual Kenyans had invested heavily in the process and therefore had a stake in the results. Many people remain baffled by the turn of events and wonder how their positive contribution by voting could have led to such negative and painful outcome for them.
- The conduct of the ECK and party agents both at constituency tallying centres and at KICC left a lot to be desired and considerably undermined the credibility of the results;
- Flawed as it was, the final result indicated that no one candidate received the popular mandate of the majority of Kenyans. Each of the leading candidates had more Kenyans voting AGAINST them than those who voted FOR them;
- Fundamental issues remain that need to be addressed if Kenyans are to restore faith in the electoral process. Such issues include a re-tallying of the votes, inquiry on elections process, amendment to electoral laws and regulations, as well as constitutional reforms to address the shortfalls identified.

As a search for reconciliation continues, the priority should be placed on:

- An immediate stop to the violence and destruction of property following the flawed elections;
- Bringing closure to the election through a re-tallying of votes or agreeing on the result;
- Administrative, legal and constitutional changes to address the institutional weaknesses identified by the election fiasco.

1.3 The case for negotiation for Kibaki and Raila

Both President Kibaki and Hon Raila, as well as their parties appear to have taken a hard-line position that does not lend itself to dialogue and a negotiated settlement. However, both need to realize that they have a major stake and interests that make it necessary for each of them to come to the negotiating table at the earliest opportunity. That is what we, as citizens are calling for.

As the incumbent, President Kibaki has a lot to lose from the present circumstances. To start with, his five year legacy has been thoroughly undermined. Kibaki promised improved economic performance, the events of the last few days will see the economy perform dismally leading to lower domestic revenues and growth rate worse than what we saw during the worst Moi years. Kibaki promised democratic empowerment but the impact of the post election situation is a reversal of virtually every gain made over the last five years – more than half the population feel disenfranchised and the gains made in opening up the democratic space have been eroded – especially media freedom. Kibaki promised national unity but the country is now more divided than it has ever been at any other time in our history. In addition, Kibaki has identified himself as a champion for business but the current circumstances will see most of the business constituents suffering considerable losses which could lead to their reconsidering support for the president. Some sectors are already projecting significant losses, including total collapse. The Kibaki Government came in with the agenda of restoring international respectability for Kenya but the current situation has very seriously dented the country's image as the world watches horrific images emanating from the country on virtually every international media. Above all, this being Kibaki's last term, however long that lasts, it is in Kibaki's interest to leave the country on a firm footing for greater development as envisioned in Vision 2030 which PNU run on rather than have the dubious distinction of being the president who led Kenya to disintegration and failure. The case for negotiation for President Kibaki is predicated on how he wishes to fulfill the interests of his core constituent and the legacy he leaves behind. This has a very personal implication for the president. How this crisis is resolved could very well determine whether President Kibaki is able to live in this country after his exit from State House – and the timing of such exit.

On his part, Hon Raila Odinga also has a strong case to come to the negotiating table. He mobilized considerable resources from his financiers and backers on the promise of good governance but what we are seeing now cannot be described does not qualify as good governance in any shape or form. Hon Raila may argue that he does not hold the instruments of power to deal with the situation and that the responsibility lies with President Kibaki. However, Raila cannot altogether wash his hands off the situation and yet continue to claim legitimate leadership. In his final submission to voters, Raila was categorical about various things that "he will not do". Key among these was the promise not to divide Kenyans on whatever basis. The current scenario is definitely one that a Raila government would not do. Raila needs to climb on the same platform and show Kenyans that indeed he will not watch as Kenya disintegrates along class, ethnic and political divides. He has a high stake and interests that need to be protected through a negotiated position.

Hon Raila promised the business community, including the Nairobi Stock Exchange that his leadership would not introduce a level of instability that would undermine the gains so far made. Hon Raila needs to come forward and demonstrate that he can stem the loss to the business community rather than exacerbate it in his singular pursuit of power.

Hon Raila also went to great lengths to allay the fears of those ethnic groups that felt threatened by his candidacy and repeatedly assured them that they had nothing to fear in his leadership – this is not what is being experienced on the ground and Hon Raila needs to come forward in a statesmanlike and presidential manner to demonstrate that, if indeed he is the legitimate leader he is, as confirmed by over 4m Kenyans, that he can use this popular mandate to stop the violence rather than being seen to be sacrificing some communities in resolving the disagreement with President Kibaki. If his leadership credentials are to remain intact, Raila has a moral responsibility to stop the violence and contribute to restoring order in the country.

Hon Raila's campaign was supported by many stakeholders who hoped to reap the benefits of good governance. Raila needs to participate in a negotiated settlement and be a participant in delivering the good governance he promised. This will enable his backers to reap the dividends they anticipated from his contribution to positive change in the country.

At its best, Raila's campaign was run on a platform of 'Transformative leadership', a complete break with the poor governance that we have experienced since independence and which has resulted in the impoverishment of the bulk of the population. This promise resonated well with the population and in particular the youth and should be safeguarded if Hon Raila is to have claim to national leadership in future. As matters stand now, the country is quickly degenerating into a basket case and Raila or any other leader will not have a country to speak of that can be transformed. History will judge any of our present leaders very harshly if they are seen to have stood by as spectators as the country disintegrated. Depending on how he deals with the situation, Hon Raila could also find himself having to seek a new abode outside the country and may very well end up as Kibaki's neighbour in some African country that is willing to receive both of them.

Hon Raila's case for negotiation is predicated on the promise of transformation and real change as well the hope he offers the emerging generation and in particular the youth. These are the ones who have the highest stake, and therefore the most to lose from a disintegrated Kenya. This core constituent will demand that Raila actively engages in resolving the current crisis and put the country on a path to a positive future.

1.4 *The pathways to, and consequences of failure*

Each of the protagonists could maintain their hard-line position and this is a sure recipe for failure with far reaching consequences for them as individuals and for Kenya as a country.

President Kibaki and PNU's position is that they won the election and anybody who is dissatisfied with the results should go to court. This position fails to recognize the anomalies in the election process which have been highlighted by various groups. It also fails to recognize that more than 50% of the voters did not vote for the president and that PNU has less than 25% of the parliamentary seats.

It appears that the President and PNU are confident that they can weather the current insecurity and vandalism – for that is what they see it as. Followed to its logical conclusion, this could mean that the president could cobble together a coalition government and continue to run the country in a 'business-as-usual' manner.

On Hon Raila's and ODM's part, their hard-line position is that they won the election and it was stolen from them. Their agenda now is to take back what is rightfully theirs and get President Kibaki to concede and somehow handover power to Raila and ODM. Short of this, ODM will continue with a protest campaign until the Kibaki Government gets to admit the injustice that has been committed against Kenyans or is forced out of office through mass action.

Raila and ODM's position does not appear to take cognizance of the voting patterns – that again more than 50% of the population did not vote for Raila and that more than 50% of the parliamentary seats were won by other parties other than ODM.

If both camps maintain their hard-line positions, this is a recipe for failure. In order to understand how these hard-line positions could still prevail, we need to identify the key stakeholders on each side. On both sides of political divide, we have Kibaki/Raila at the top, there is the PNU top leadership or ODM Pentagon, key backers, and financiers whose main concern will be their interests - that the country is able to continue to run and that they can recoup the economic gains from the support they have provided to the campaign. This category is unlikely to accept any settlement that does not provide them the opportunity to reap the benefits of their support – and that means their man has to be on top, for this category it is all or nothing! However, if their man is not able to deliver, they may quickly ditch him and seek the next best alternative to deliver the gains that they seek. This is one of the sources of the real risk that both Kibaki and Raila may find themselves unwelcome in this country if they are unable to come to a negotiated settlement.

Then there are the newly elected parliamentarians who are torn between holding out until they can realize their expectations of positions in Government, or accelerating their swearing into parliament to enable them to replenish their exhausted finances. On the one hand this group could prolong the crisis but it is more likely that they may want a quicker settlement and one that does not require them to go through the election process again. This could encourage Kibaki to believe that he can form a coalition Government from a cross section of parliamentarians, especially since the new Politic Parties Act is not yet operational.

At the bottom of the pyramid on both sides of the divide are the citizens who are being used as pawns and facing the brunt of the crisis. For the civic aware, the resolution will require a commitment on both sides to build a robust political institutional framework that will guard against any future crisis. For ordinary citizens, their main quest is an improved quality of life and ironically, the crisis may present the bulk of the poor with the opportunity to access the resources they have been denied for so long. Whether it is through rent-seeking road blocks, looting or invasion of the properties of the rich – this could turn out to be a class crisis of such proportions than could ever have been envisaged by the protagonists.

If both sides of the divide dig in, President Kibaki could form a coalition Government with ODM Kenya and other smaller parties and use state might to overcome the resistance from ODM. This would prove to be a hugely unstable environment with little prospect of the economic gains expected by his core supporters. Ultimately, President Kibaki could end up impoverishing the country even more and the result would be his alienation even by his closest supporters. On this pathway, failure would mean that the country continues to suffer disruption, economic growth comes to a halt or even decline, and the country degenerates even further into chaos. President Kibaki would not last the full five-year term in State House and it may even be untenable for him to remain in the country. This scenario would cost all stakeholders on Kibaki's side – him personally, his key backers and financiers, the members of parliament in his Government and ultimately the general population. The impact of such state failure would be far reaching and take considerable time to restore any semblance of normalcy.

On their part Raila and ODM could maintain their hard-line stance and continue with mass action to force Kibaki out of power. For such a strategy to succeed, Raila and ODM have to be prepared to continue to stretch the security forces on many fronts, including bringing the country to the brink of civil war, until they make the country so ungovernable that they create the opportunity to take over the presidency. Given the current situation, that could take anywhere between six to over 24 months. Business comes to a standstill and we have to go out begging for resources. This

could also result on a strain on regional economies to a point of near collapse – however, our neighbors will not sit back and watch as their economies are damaged and raising new political and governance issues for their own countries. On its part, the international community will continue to be concerned as they shoulder some of the responsibilities for Kenya's failure, including having to cater for large numbers of displaced people as well as the disruption in the regional economies, some of them still very fragile. This could result in sanctions against Kenya and being seen more as a pariah state.

The result of such a campaign could mean a number possible scenarios: short term success for Raila and ODM, but long-term failure for Kenya as the country we know today; long term failure for ODM and Kenya as a country; short-term failure for Kenya but long term success as the country is rebuilt on a more firm political foundation. The conviction by ODM that they could deliver this long-term success could result in a more drawn out conflict. However, the success of such a long drawn out campaign would depend on the appetite that the key backers, financiers and citizens have for extended losses and suffering. It is unlikely that any of these stakeholders would withstand extended hardships and they may very well turn against Raila and ODM. This could mean immediate failure for Raila and ODM as Kenyans take back the agenda. In such an eventuality, Raila may also find his stay in the country becomes untenable.

1.5 Possible negotiation agenda

1. ***Restoring peace, reconciliation and national healing*** – This will require all actors to work cooperatively to bring an immediate end to the violence, enable peaceful political activity, actively engage in reconciling communities and encourage peace initiatives.
2. ***Trust and confidence building for the political players*** – the current crisis has been precipitated by mistrust that has accumulated over time. Deliberate efforts need to be undertaken to rebuild trust and confidence between and among political players to enhance the capacity for dialogue and constructive engagement. All political players must be bound by the agreements reached in the negotiations.
3. ***Election closure*** – The disputed presidential poll has to be brought to closure if Kenyans are to have faith in the electoral process. This will require some form of agreement on the final presidential poll. Any rerun of the election will need to take account of the legal and constitutional implications that impact on the timing and eligibility for such an election.
4. ***Composition and duration of a Government of National Unity*** – Given the trends in both presidential and parliamentary results, a grand coalition or Government of National Unity will command a significant popular mandate and be well placed to set the pace for some of the deeper issues that have led to the current crisis. It is therefore necessary for the parties to agree the structure, character, and guiding principles for such a Government, as well as its duration. The duration will need to recognize the dispute as well as take account of the time required to put in place the required institutional reforms before the next election.
5. ***Priority agenda for the Government of National Unity*** – Given the history of mistrust and acrimony experience in the last coalition government, it will be necessary for the GNU to first agree the priority agenda for the government. Agenda must be publicly acknowledged and be the basis for holding the Government to account. The priority agenda should include a mechanism for responding to new developments. Key among the items to be included in the priority agenda include:

6. Constituting a body to carry out a comprehensive review of the election process, identify the reforms necessary to restore confidence and spirited public information, education and communication campaigns to reverse the negative perceptions emanating from the disputed poll.
7. Constitutional reforms to address some of the deep-rooted issues including an improved electoral framework, revised mechanisms for transfer of power, devolution and distribution of resources for equitable development, structure of Government and powers of the Executive;
8. Administrative and legal reform issues to address the weaknesses identified in the electoral process
9. The return of internally displaced persons and reconstruction
10. Priority initiatives to deliver equitable economic growth
11. A comprehensive framework to address land issues
12. An anti-corruption agenda and a robust transparent Public Accountability framework.
13. The establishment of the truth of the allegations of all forms of ethnic cleansing with a view to restitution and justice
14. ***The next Presidential and/or National Elections*** - The timing of the next Presidential and/or National Elections should be agreed as part of the negotiated settlement.
15. ***Global agenda to restore international respectability*** – The country has suffered considerable damage from the post election violence. Deliberate efforts need to be made to restore our standing in the regional and international arena. A global agenda shared with all stakeholders should be agreed to form part of efforts and reclaiming our pride of place among nations

1.6 Post-crisis negotiated scenario – a new dawn

If handled with sobriety and enlightened leadership, Kenya can still emerge from the current situation as a strong nation that has its pride of place among nations of the world. We can all return to one common purpose, one that unites us together in the development of our nation:

To earn and uphold our pride of place among nations as a sovereign and remarkable country of outstanding people enjoying a high quality of life

The Kenya that emerges from the present circumstances could be thus described:

- ***To earn and uphold our pride of place among nations:*** We are competitive, equitable and compassionate; We have a vision of where we want to be; all our efforts are focused on that vision; We are proudly Kenyan. This pride of place is ‘earned’, we have put specific effort to win it.
- ***Kenya as a sovereign country:*** We are patriotic and proud to be Kenyan. We govern ourselves and safeguard our territorial integrity
- ***Kenya as a remarkable country:*** we welcome all to celebrate our natural endowment; we are well-governed; we achieve amazing results despite the challenges have faced and continue to encounter; we deliver remarkable investment returns; We will be known for high standards and diligence globally; we will be talked of because of what we have achieved, because of our level of discipline and respect for the rule of law, because everything works!
- ***Outstanding people:*** our diversity is our strength and wealth; our culture and values stand out; we have well developed human resource, and place a premium on innovativeness; our people are recognized for excellence in whatever we do, wherever we are in the world.

- **High quality of life for all:** justice and equity, majority live in ‘Maslow’s’ third tier; we welcome all well-meaning citizens of the world to come and enjoy this quality of life.

The major hallmarks on the new Kenya would be:

- 1 Democracy thrives
- 2 Absolute poverty eradicated
- 3 Respect for the rule of law
- 4 A robust political institutional framework
- 5 Economic growth and improved quality of life for all
- 6 Regional and International respectability.

1.7 Proactive and vigilant Civil Society

Civil Society Organisations will need to institute a coherent framework for holding the Government to account on the negotiated settlement on behalf of citizens. This will require CSOs to demonstrate legitimacy and good governance internally. An umbrella Civil Society organizations such as the National Council of NGOs among others will need to be included in the public accountability framework that the Government will commit to as part of the GNU’s priority agenda.

In addition, Civil Society will need to embark on particular initiatives to secure a lasting peace and livelihoods that restore human dignity. Such initiatives may include organizing peace rallies, building a community institutional framework for conflict prevention and resolution, national and community reconciliation and policy advocacy among other initiatives. Civil Society umbrella organizations must create space for CSOs to continue to engage in efforts aimed particularly at resolving some of the deep-rooted issues. It is recognized that this is a long term agenda that will go well beyond the immediate political settlement to the current crisis.

1.8 Faith based organisations as spiritual conscience for the nation

Religious and faith-based organizations have played a critical historical role that is both spiritual, social and political in our Kenya. It is not surprising that this is one of the important forces in pre-civic education, election monitoring and holding the Government accountable to democratic norms during the lead up to, during and the aftermath of the 2007 General Elections. In the coming days, weeks and months, the consistent vigilance and unity of the religious community is central to resolving the current crisis.

1.9 Sharing and dissemination

The framework has been developed with input from a broad range of professionals and individuals cutting across all divides. They offer it to all Kenyans, friends of Kenya and in particular: the key protagonists, other political actors, civil society, business and professional associations, the Media and international development partners. All Kenyans of goodwill are invited to discuss this framework and endorse it to make it a truly citizen agenda. We also invite friends of Kenya and our international partners to provide support to ensure that the aspirations included in this framework are realized.

We remain positive and hopeful that Kenya can competently manage the present crisis and emerge a stronger nation.

The words of our National Anthem will be proved to be true:

*O God of all creation
Bless this land and our nation
Justice be our shield and defender
May we dwell in Unity, Peace and Liberty
Plenty be found within our borders.*