

Country/entity	Kenya
Region	Africa (excl MENA)
Agreement name	Kenyan National Dialogue and Reconciliation: How to Resolve the Political Crisis
Date	14 Feb 2008
Agreement status	Multiparty signed/agreed
Interim arrangement	Yes
Agreement/conflict level	Intrastate/intrastate conflict Kenyan Post-Electoral Violence (2007 - 2008) The conflict emerged as post-election violence. After the incumbent President Kibaki was declared the winner of the Kenyan presidential elections in December 2007, complaints of fraud and a structural disadvantage affecting his competitor Raila Odinga lead to outbreaks of severe ethno-political violence. After the first incidents in the Rift Valley region, mainly directed against the Kikuyu ethnic group – the traditional powerbase of Kibaki – the fighting spread to the cities of Nairobi and Mombasa. After two months, Kibaki and Odinga agreed on a power-sharing agreement that granted Odinga the post as a Prime Minister and ended the violence. Close Kenyan Post-Electoral Violence (2007 - 2008)
Stage	Framework/substantive - partial
Conflict nature	Government
Peace process	Kenya peace process
Parties	On the Government/PNU: Hon. Martha Karua, Hon. Sam Onger, Hon. Mutula Kilonwo, Hon. Moses Wetang'ula On the behalf of ODM: Hon. Musalia Mudavadi, Hon. William Ruto, Hon. Sally Kosgei, Hon. James Orengo
Third parties	Witnessed by: For the Panel of Eminent African Personalities: H.E. Kofi A. Annan, Chairperson
Description	-
Agreement document	KE_080214_Agenda Item Three How to Resolve the Political Crisis.pdf (opens in new tab) Download PDF

Groups

Children/youth	Groups→Children/youth→Rhetorical Page 4, III. Regarding the need for a political settlement to resolve the current crisis: ... We also agree that the issues in Agenda Item Four are fundamental to the root causes of the crisis, and are closely linked with Agenda Item Three. The implementation of the following reforms should commence urgently in concert with reforms of Agenda Item Three. However, these processes may continue beyond the timeline of the next election: ... • Tackling unemployment, particularly among the youth;
Disabled persons	No specific mention.
Elderly/age	No specific mention.
Migrant workers	No specific mention.
Racial/ethnic/ national group	No specific mention.
Religious groups	No specific mention.
Indigenous people	No specific mention.
Other groups	No specific mention.
Refugees/displaced persons	Groups→Refugees/displaced persons→Rhetorical Page 2, II. Regarding the disputed presidential electoral results, we examined the following options: ... (c) Re-run of Presidential Elections ... We agreed however that, to safeguard the trust and confidence of the Kenyan people in the democratic process, the next election should take place only after electoral reforms, including but not limited to the reform of the Electoral Commission of Kenya, finalization of the work of the Independent Review Committee (see below), updating of the Voters' List, establishment and improvement of dispute resolution mechanisms and effecting measures to ensure enfranchisement or Internally Displaced Persons and refugees have been implemented.
Social class	No specific mention.

Gender

Women, girls and gender No specific mention.

Men and boys No specific mention.

LGBTI No specific mention.

Family No specific mention.

State definition

Nature of state (general) No specific mention.

State configuration No specific mention.

Self determination No specific mention.

Referendum No specific mention.

State symbols No specific mention.

Independence/secession No specific mention.

Accession/unification No specific mention.

Border delimitation No specific mention.

Cross-border provision No specific mention.

Political No specific mention.
institutions (new or
reformed)

Elections

Page 1, I. Preamble, I. Preamble:

Reaffirming the Goal of the National Dialogue and Reconciliation:

To ensure that the National Dialogue and Reconciliation is carried out in a continuous and sustained manner towards resolving the political crisis arising from the disputed presidential electoral results as well as the ensuing violence in Kenya, in line with the agreement between His Excellency Mwai Kibaki and Honourable Raila Odinga, as publicly announced on 24th January and reaffirmed on 29th January 2008 at County Hall in Nairobi.

...

Recognising under Agenda Item Three that, in large measure, the current crisis revolves around the issues of power and the functioning of state institutions, and also recognizing that its resolution may require adjustments to the current constitutional, legal and institutional frameworks, the parties negotiated and agreed on a solution towards resolving the political crisis arising from the disputed presidential electoral results as well as the ensuing violence in Kenya.

Page 1-3, II. Regarding the disputed presidential electoral results, we examined the following options:

(a) Complete Re-count of the Presidential Elections.

We agreed that any re-count, to be considered credible in the eyes of the Kenyan people, would need to be nation-wide, involving a ballot by ballotscrutiny of all of the more than 11,000,000 ballots cast on December 27th. We agreed that all ballots and electoral materials would have to be made available at counting centres across the country before announcing a re-count. A re-count would need to be conducted under the full scrutiny of trained observers and party agents, who would have the right to scrutinize the counting and verify each and every ballot.

We agreed that a re-count would need to be overseen by a specially appointed independent body that enjoys the trust and broad support of all Kenyans.

We considered the timeline for a possible re-count. We agreed that the preparatory work required to make a re-count credible in the eyes of the Kenyan people and in keeping with international best practices could take up to three months.

We were concerned that a delay of several months could significantly increase existing tensions and delay resolution of the current crisis, and we recognize that the result of a re-count might not further Kenyan unity, and we therefore decided to review other options.

(b) Re-tally

We agreed that any re-tally, to be considered credible in the eyes of the Kenyan people, would need to be nation-wide, involving full scrutiny and re-tally of results sheets from all of the more than 27,500 polling station tally sheets and 210 constituency tally sheets. We agreed that all forms would have to be made available across the country before announcing a re-tally. A re-tally would need to be conducted under the full scrutiny of trained observers and party agents, who would have the right to scrutinize the conduct of the process and the validity of each tally sheet, and would need to be overseen by a specially appointed independent body that enjoys the trust and broad support of all Kenyans.

While we agreed that a re-tally could successfully identify problems or irregularities in the tally sheets, a re-tally could not however identify the correct result in those stations or constituencies where problems or irregularities were identified. For these reasons stated above, we decided to review other options.

(c) Re-run of Presidential Elections

We were not in agreement on the need for a re-run of the Presidential elections. We agreed however that, to safeguard the trust and confidence of the Kenyan people in the democratic process, the next election should take place only after electoral reforms

**Electoral
commission**

Page 2:

While we agreed that a re-tally could successfully identify problems or irregularities in the tally sheets, a re-tally could not however identify the correct result in those stations or constituencies where problems or irregularities were identified.

For these reasons stated above, we decided to review other options.

(c) Re-run of Presidential Elections

We were not in agreement on the need for a re-run of the Presidential elections.

We agreed however that, to safeguard the trust and confidence of the Kenyan people in the democratic process, the next election should take place only after electoral reforms, including but not limited to the reform of the electoral commission of Kenya, finalization of the work of the Independent Review Committee (see below), updating of the Voters' List, establishment and improvement of dispute resolution mechanisms and effecting measures to ensure enfranchisement of Internally Displaced Persons and refugees have been implemented. ·

Pages 3-4:

III. Regarding the need for a political settlement to resolve the current crisis, we agree on the following points:

We recognize that there is a serious crisis in the country, we agree a political settlement is necessary to promote national reconciliation and unity.

We also agree that such a political settlement must be one that reconciles and heals the nation and reflects the best interests of all Kenyans. A political settlement is necessary to manage a broad reform agenda and other mechanisms that will address the root causes of the crisis.

Such reforms and mechanisms will comprise, but are not limited to, the following:

- Comprehensive Constitutional reforms;
- Comprehensive electoral reform - of the electoral laws, the electoral commission and dispute resolution mechanisms;

**Political parties
reform**

No specific mention.

Civil society

No specific mention.

**Traditional/
religious leaders**

No specific mention.

Public administration	No specific mention.
Constitution	<p>Governance→Constitution→Constitutional reform/making</p> <p>Page 1, I. Preamble, I. Preamble:</p> <p>...</p> <p>Recognising under Agenda Item Three that, in large measure, the current crisis revolves around the issues of power and the functioning of state institutions, and also recognizing that its resolution may require adjustments to the current constitutional, legal and institutional frameworks, the parties negotiated and agreed on a solution towards resolving the political crisis arising from the disputed presidential electoral results as well as the ensuing violence in Kenya.</p> <p>Page 3, III. Regarding the need for a political settlement to resolve the current crisis:</p> <p>...</p> <p>We also agree that such a political settlement must be one that reconciles and heals the nation and reflects the best interests of all Kenyans. A political settlement is necessary to manage a broad reform agenda and other mechanisms that will address the root causes of the crisis.</p> <p>Such reforms and mechanisms will comprise, but are not limited to, the following:</p> <ul style="list-style-type: none"> • Comprehensive Constitutional reforms;

Power sharing

Political power sharing	No specific mention.
Territorial power sharing	No specific mention.
Economic power sharing	No specific mention.
Military power sharing	No specific mention.

Human rights and equality

Human rights/RoL general	<p>Page 1, I. Preamble, I. Preamble:</p> <p>...</p> <p>The final goal of the National Dialogue and Reconciliation is to achieve sustainable peace, stability and justice in Kenya through the rule of law and respect for human rights.</p> <p>Page 3, III. Regarding the need for a political settlement to resolve the current crisis:</p> <p>We recognize that there is a serious crisis in the country, we agree a political settlement is necessary to promote national reconciliation and unity.</p> <p>...</p> <ul style="list-style-type: none">• Respect for human rights;
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Bill of rights/similar No specific mention.

Treaty incorporation No specific mention.

Civil and political rights No specific mention.

Socio-economic rights No specific mention.

Rights related issues

Citizenship No specific mention.

Democracy Page 2, II. Regarding the disputed presidential electoral results, we examined the following options:

...

(c) Re-run of Presidential Elections

...

We agreed however that, to safeguard the trust and confidence of the Kenyan people in the democratic process, the next election should take place only after electoral reforms, including but not limited to the reform of the Electoral Commission of Kenya, finalization of the work of the Independent Review Committee (see below), updating of the Voters' List, establishment and improvement of dispute resolution mechanisms and effecting measures to ensure enfranchisement or Internally Displaced Persons and refugees have been implemented.

Detention procedures No specific mention.

Media and communication No specific mention.

Mobility/access No specific mention.

Protection measures No specific mention.

Other No specific mention.

Rights institutions

NHRI No specific mention.

Regional or international human rights institutions No specific mention.

Justice sector reform

Criminal justice and emergency law No specific mention.

State of emergency provisions No specific mention.

Judiciary and courts Page 2-3, II. Regarding the disputed presidential electoral results, we examined the following options:
...
(d) Judicial Process
We agreed that a judicial process was no longer an option as the legal time limit had expired, and we therefore decided to review other options.

Page 3-4, III. Regarding the need for a political settlement to resolve the current crisis:
...
We also agree that such a political settlement must be one that reconciles and heals the nation and reflects the best interests of all Kenyans. A political settlement is necessary to manage a broad reform agenda and other mechanisms that will address the root causes of the crisis.
Such reforms and mechanisms will comprise, but are not limited to, the following:
• Legal and Judicial reforms;

Prisons and detention No specific mention.

Traditional Laws No specific mention.

Socio-economic reconstruction

Development or socio-economic reconstruction	<p>Socio-economic reconstruction→Development or socio-economic reconstruction→Socio-economic development</p> <p>Page 3-4, III. Regarding the need for a political settlement to resolve the current crisis:</p> <p>...</p> <p>We also agree that such a political settlement must be one that reconciles and heals the nation and reflects the best interests of all Kenyans. A political settlement is necessary to manage a broad reform agenda and other mechanisms that will address the root causes of the crisis.</p> <p>Such reforms and mechanisms will comprise, but are not limited to, the following:</p> <p>...</p> <ul style="list-style-type: none">• Other legislative, structural, political and economic reforms as needed. <p>Page 4, III. Regarding the need for a political settlement to resolve the current crisis:</p> <p>...</p> <p>We also agree that the issues in Agenda Item Four are fundamental to the root causes of the crisis, and are closely linked with Agenda Item Three. The implementation of the following reforms should commence urgently in concert with reforms of Agenda Item Three. However, these processes may continue beyond the timeline of the next election:</p> <p>...</p> <ul style="list-style-type: none">• Tackling poverty and inequity, as well as combating regional development imbalances, particularly promoting equal access to opportunity;• Tackling unemployment, particularly among the youth;
National economic plan	No specific mention.
Natural resources	No specific mention.
International funds	No specific mention.
Business	No specific mention.
Taxation	No specific mention.
Banks	No specific mention.

Land, property and environment

Land reform/rights	Land, property and environment→Land reform/rights→Land reform and management Page 4, III. Regarding the need for a political settlement to resolve the current crisis: ... We also agree that the issues in Agenda Item Four are fundamental to the root causes of the crisis, and are closely linked with Agenda Item Three. The implementation of the following reforms should commence urgently in concert with reforms of Agenda Item Three. However, these processes may continue beyond the timeline of the next election: ... • Land reform;
Pastoralist/nomadism rights	No specific mention.
Cultural heritage	No specific mention.
Environment	No specific mention.
Water or riparian rights or access	No specific mention.

Security sector

Security Guarantees	Page 1, I. Preamble, I. Preamble: Reaffirming the Goal of the National Dialogue and Reconciliation: To ensure that the National Dialogue and Reconciliation is carried out in a continuous and sustained manner towards resolving the political crisis arising from the disputed presidential electoral results as well as the ensuing violence in Kenya, in line with the agreement between His Excellency Mwai Kibaki and Honourable Raila Odinga, as publicly announced on 24th January and reaffirmed on 29th January 2008 at County Hall in Nairobi. The final goal of the National Dialogue and Reconciliation is to achieve sustainable peace, stability and justice in Kenya through the rule of law and respect for human rights. Recognising under Agenda Item Three that, in large measure, the current crisis revolves around the issues of power and the functioning of state institutions, and also recognizing that its resolution may require adjustments to the current constitutional, legal and institutional frameworks, the parties negotiated and agreed on a solution towards resolving the political crisis arising from the disputed presidential electoral results as well as the ensuing violence in Kenya.
Ceasefire	No specific mention.

Police	<p>Page 3, III. Regarding the need for a political settlement to resolve the current crisis:</p> <p>...</p> <p>We also agree that such a political settlement must be one that reconciles and heals the nation and reflects the best interests of all Kenyans. A political settlement is necessary to manage a broad reform agenda and other mechanisms that will address the root causes of the crisis.</p> <p>Such reforms and mechanisms will comprise, but are not limited to, the following:</p> <p>...</p> <ul style="list-style-type: none"> • Police reform;
Armed forces	No specific mention.
DDR	No specific mention.
Intelligence services	No specific mention.
Parastatal/rebel and opposition group forces	No specific mention.
Withdrawal of foreign forces	No specific mention.
Corruption	<p>Page 4, III. Regarding the need for a political settlement to resolve the current crisis:</p> <p>...</p> <p>We also agree that the issues in Agenda Item Four are fundamental to the root causes of the crisis, and are closely linked with Agenda Item Three. The implementation of the following reforms should commence urgently in concert with reforms of Agenda Item Three. However, these processes may continue beyond the timeline of the next election:</p> <p>...</p> <ul style="list-style-type: none"> • Strengthening of anti-corruption laws/public accountability mechanisms; <p>...</p> <ul style="list-style-type: none"> • Addressing issues of accountability and transparency.
Crime/organised crime	No specific mention.
Drugs	No specific mention.
Terrorism	No specific mention.

Transitional justice

Transitional justice general Page 4, III. Regarding the need for a political settlement to resolve the current crisis:
...

We also agree that the issues in Agenda Item Four are fundamental to the root causes of the crisis, and are closely linked with Agenda Item Three. The implementation of the following reforms should commence urgently in concert with reforms of Agenda Item Three. However, these processes may continue beyond the timeline of the next election:

- Consolidating national cohesion and unity;
- Land reform;
- Tackling poverty and inequity, as well as combating regional development imbalances, particularly promoting equal access to opportunity;
- Tackling unemployment, particularly among the youth;
- Reform of the Public Service;
- Strengthening of anti-corruption laws/public accountability mechanisms;
- Reform of Public Finance and Revenue Management Systems and Institutions;
- Addressing issues of accountability and transparency.

We recognize that this settlement is not about sharing of political positions but about addressing the fundamental root causes of recurrent conflict, and we reaffirm our commitment to address the issues within Agenda Item Four expeditiously and comprehensively.

Amnesty/pardon No specific mention.

Courts

Transitional justice→Courts→National courts

Page 3, III. Regarding the need for a political settlement to resolve the current crisis:

...

We also agree that such a political settlement must be one that reconciles and heals the nation and reflects the best interests of all Kenyans. A political settlement is necessary to manage a broad reform agenda and other mechanisms that will address the root causes of the crisis.

Such reforms and mechanisms will comprise, but are not limited to, the following:

...

- Identification and prosecution of perpetrators of violence;

Mechanism

Page 3, III. Regarding the need for a political settlement to resolve the current crisis:

...

We also agree that such a political settlement must be one that reconciles and heals the nation and reflects the best interests of all Kenyans. A political settlement is necessary to manage a broad reform agenda and other mechanisms that will address the root causes of the crisis.

Such reforms and mechanisms will comprise, but are not limited to, the following:

...

- A truth, justice and reconciliation commission;
- Identification and prosecution of perpetrators of violence;

Prisoner release No specific mention.

Vetting No specific mention.

Victims	No specific mention.
Missing persons	No specific mention.
Reparations	No specific mention.
Reconciliation	<p>Page 1, I. Preamble, I. Preamble: Reaffirming the Goal of the National Dialogue and Reconciliation: To ensure that the National Dialogue and Reconciliation is carried out in a continuous and sustained manner towards resolving the political crisis arising from the disputed presidential electoral results as well as the ensuing violence in Kenya, in line with the agreement between His Excellency Mwai Kibaki and Honourable Raila Odinga, as publicly announced on 24th January and reaffirmed on 29th January 2008 at County Hall in Nairobi.</p> <p>Page 1-2, II. Regarding the disputed presidential electoral results, we examined the following options: (a) Complete Re-count of the Presidential Elections. ... We were concerned that a delay of several months could significantly increase existing tensions and delay resolution of the current crisis, and we recognize that the result of a re-count might not further Kenyan unity, and we therefore decided to review other options.</p> <p>Page 3, III. Regarding the need for a political settlement to resolve the current crisis: We recognize that there is a serious crisis in the country, we agree a political settlement is necessary to promote national reconciliation and unity.</p> <p>We also agree that such a political settlement must be one that reconciles and heals the nation and reflects the best interests of all Kenyans. A political settlement is necessary to manage a broad reform agenda and other mechanisms that will address the root causes of the crisis. Such reforms and mechanisms will comprise, but are not limited to, the following:</p> <ul style="list-style-type: none"> • A truth, justice and reconciliation commission; • Identification and prosecution of perpetrators of violence; • Respect for human rights; • Parliamentary reform; • Police reform; <p>Page 4, III. Regarding the need for a political settlement to resolve the current crisis: ... We also agree that the issues in Agenda Item Four are fundamental to the root causes of the crisis, and are closely linked with Agenda Item Three. The implementation of the following reforms should commence urgently in concert with reforms of Agenda Item Three. However, these processes may continue beyond the timeline of the next election:</p> <ul style="list-style-type: none"> • Consolidating national cohesion and unity;

Implementation

UN signatory No specific mention.

Other international signatory No specific mention.

Referendum for agreement No specific mention.

International mission/force/similar No specific mention.

Enforcement mechanism No specific mention.

Related cases No specific mention.

Source <http://www.peacemaker.un.org/>
