

# DIALOGUE REFERENCE GROUP

Reconciling and Restoring Kenya Through Structured Dialogue

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## JUSTICE BE OUR SHIELD AND DEFENDER

### PREAMBLE

Justice is the equalizing factor among all humans. Without it, there is extensive human suffering, and people have no peace or safety. It is in this understanding that Kenyans, through the National Anthem, always pray: *“O God of all creation, bless this our land and nation, justice be our shield and defender”*.

It is with this in mind that the Dialogue Reference Group met here today at Ufungamano House to review the state of the nation. In our reflections, we considered keenly the inspiration in the Bible as recorded in Micah 6: 8

*He has shown you, O mortal, what is good. And what does the Lord require of you?  
To act justly and to love mercy and to walk humbly with your God.*

And also from the Holy Koran in Chapter 5 verse 16

*Wherein Allah guideth all who seek his good pleasure to ways of peace and safety  
and leadeth them out of darkness by his will unto light.*

We now wish to share the following message with all Kenyans.

### 1. Scenarios

The Dialogue Reference Group recalls that in July 2018, we highlighted to the nation that there were three possible scenarios moving forward. In our meeting and previous consultations, we have reviewed the state of the nation and have today revisited the scenarios, and note as follows:

Scenario	Characteristics / Facilitating Factors
1. Normalized Crisis – National Stagnation	<ul style="list-style-type: none"> <li>• This is the default setting for Kenya, where the country is stabilized but the underlying conflicts are not resolved</li> <li>• The opposition is captured and ineffective</li> <li>• There is continued violation of human rights, impunity and blatant disregard of the rule of law</li> <li>• Corruption continues to reign</li> <li>• No reforms, No structured Dialogue, and life is business as usual</li> </ul>
2. Relapse to Conflict	<ul style="list-style-type: none"> <li>• The agreements reached during the consultations between HE Uhuru and Rt Hon Raila collapse</li> <li>• Jubilee Party implodes leading to discord between the President and the Deputy and their perceived supporters</li> <li>• 2022 elections take center stage and campaigns overshadow national reconciliation and development agenda, complete with ethnic mobilisation and negative propaganda</li> <li>• Jubilee uses its majority to consolidate power and hinder genuine reforms</li> <li>• Underground militias emerge, and coupled with continual weakening of social institutions, lead to anarchy</li> </ul>
3. Dialogue and Transformation	<ul style="list-style-type: none"> <li>• There is wide-scale, all inclusive dialogue leading to genuine reforms</li> <li>• There is comprehensive identification and resolution of the underlying causes of conflict among communities</li> <li>• Reforms are undertaken in the electoral regime to ensure future elections are free, fair, peaceful and credible</li> </ul>

It is highly regrettable that two years later, the country remains in a Scenario One status, while speeding fast towards Scenario Two. If we do not have an urgent change of heart, we risk experiencing widespread conflict and violence before, during and after the 2022 elections. We call upon all Kenyans, and moreso the political and religious leaders, to

spearhead a national dialogue process designed to defuse the tension in the country. As a nation, we must always recall that the Covid-19 pandemic has impoverished more than 45 percent of the population. This means that there are more citizens who are poorer, desperate, hungry and angry, which are potent ingredients for explosive conflict.

In the meantime, we make the following recommendations.

## **2. Prepare for 2022 General Elections**

This Dialogue Reference Group notes that the Independent Electoral and Boundaries Commission (IEBC) is once again suffering from a serious case of leadership and credibility crisis. It is greatly worrying that 20 months before the elections, the four commissioners who resigned have not been replaced, and the process of appointing a substantive Chief Executive Officer is in limbo. On its part, Parliament has so far neglected to institute the necessary legal framework for setting up a process for filling of vacancies in the IEBC as was promised in 2016 when the temporary Panel to recruit commissioners was put in place.

We strongly recommend that a Joint Parliamentary Select Committee is urgently put in place to legislate a legal framework for appointment of IEBC Commissioners that is not controlled by political parties. Commissioners should be fully independent of political influences.

Further to this, there is need for the IEBC to regularly update and involve Kenyans in the preparations for the 2022 General Elections. We must avoid handling the elections as an emergency.

## **3. Deal with Corruption Effectively**

This Dialogue Reference Group continues to be appalled by the blatant impunity that is bedrock of corruption in this country. There is no justice in corruption.

By late August this year, information in the public arena indicated that the country had received more than 190 billion Kenya Shillings to deal with the Covid-19 pandemic, most of which was not accounted for. Most glaring were the scandalous transactions by the Kenya Medical Supplies Agency (KEMSA). Subsequently, His Excellency the President

instructed investigative agencies 21 days to arrest and prosecute the suspects in the scandals, and 30 days to for the Ministry of Health to set up a public portal where details of all procurements touching on Covid-19 are presented. These instructions have not been followed, despite the deadline passing on September 15.

We urge His Excellency the President to institute a broadbased consultative process to develop a corruption eradication strategy for the nation. Kneejerk reactions will not eradicate the impunity that drives corruption.

#### **4. The Proposed Referendum**

This Dialogue Reference Group has in the past recommended that constitutional reforms be grouped into two categories, these being those that require a referendum and those that can be instituted through Parliament. We proposed that constitutional reforms be guided by three principles:

- a) Reforms should lead to inclusive government, not more government
- b) Reforms should unite Kenyans, not divide them, and should avoid Yes-No questions
- c) The process should consultative, inclusive and consensus-based
- d) There should be adequate civic education during the process

Based on the foregoing, this Dialogue Reference Group is of the view that time has run out time for carrying out constitutional amendments through a referendum before the 2022 elections, and the window for reforms through Parliament will run out by June 2021.

It is our considered position that the reforms that need to be carried out are those that that will facilitate credible, free, fair and verifiable General Elections in 2022.

#### **5. The Building Bridges Initiative Process**

Whereas the Building Bridges Initiative (BBI) was instituted to promote unity in the country, discourse on the process been on politics rather than content, with the net result that it is now a political tool that bound to drive more division than unity.

We urge that the report and proposals of the team be published to ensure further discourse is on the content rather than the toxic political diatribe we have witnessed so far.

## **6. Interference with Right to Worship**

This Dialogue Reference Group has noted with concern the statement issued by the National Security Advisory Council, as a result of which the security agencies have in the recent past been reported to have hindered activities at places of worship.

This is not appropriate and we call for its immediate stop.

While religious leaders underscore the need for law and order, we desire to see the laws applied equally to all Kenyans so that justice is not only done but also seen to be done.

On our part, we have urged our brothers and sisters who are religious leaders to maintain the sanctity of the pulpit and places of worship. The sanctuary is a sacred place for the worship of God, and should not be used for other purposes. Let us protect it.

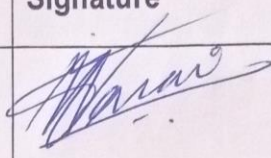
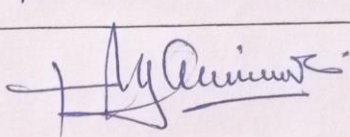
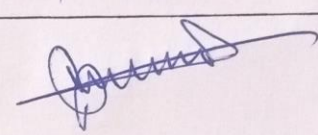
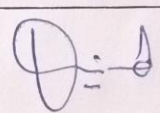
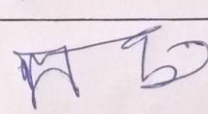
## **7. Conclusion**

We conclude by remembering that whereas justice is core to humanity and a stable nation, justice itself is dependent on truth. Let us all embrace truth, and resist those who peddle lies. May the words of the Bible always ring in our minds:

*You will know the truth, and the truth will set you free (John 8: 32)*

May God bless Kenya now and forever more:

Signed on this 16<sup>th</sup> day of October 2020 at Ufungamano House, Nairobi:

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