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Executive Summary

NCEC Charts the Way Forward for a Nation at the Crossroads

Kenya is at the crossroads. One road — the one we have been traveling for too many years — leads to chaos and national destruction. The other road leads to democracy, stability and national recovery. Katiba Mpya - Maisha Mapya: A Vision for National Renewal analyses the choice that confronts us and shows how Kenyans can take the road to recovery and democracy. It presents a concise analysis of the current crisis and lays out a comprehensive and realistic programme to:

- break the stalemate over constitutional reforms
- create a genuinely democratic and people-driven constitutional review process
- implement an agenda of national economic recovery
- inaugurate a new democratic order that will bring about a free, prosperous and well-governed Kenya.

Our Present Crisis

The Kenyan economy is failing. The shilling is sinking. Investors are shying away and most of our people are unemployed. Except for a tiny, privileged minority, those who do have jobs or businesses can hardly make ends meet. The prices of everyday goods are out of reach, and most Kenyans cannot afford proper food, decent housing, new clothes, medicines, school fees or other basic needs.

Our roads, power grids, telephone services and other infrastructure are falling to pieces. Corruption is the norm at every level of society, and the police and courts no longer protect people’s lives and property. Crime and violence are everyday realities. Millions of Kenyans live as squatters, millions of children are out of school and hundreds of thousands of our poorest and most vulnerable citizens are now facing starvation.

Kenya is in this critical condition entirely because of bad governance. Our country has the financial, material and human resources to build a prosperous, dynamic society and to enable all our people to live peace-

fully and freely and to enjoy a decent standard of living. However, years of waste, corruption, cronism, confusion, and incompetence — the true Moi legacy — have brought our country to the edge of disaster.

The Urgency of Constitutional Reform

The terrible results of the Moi government’s legacy of mismanagement have led many people to think that bad management is the cause of our political and economic crisis. But in reality bad management is only a symptom. The true cause lies deeper. It involves not just how power is used but how it is distributed.

In a democracy power is evenly distributed to enable the different branches of government to “check and balance” one another and to force leaders to act within limits and be accountable to the people. But soon after independence KANU began playing around with our constitution to suit its own narrow interests. It broke down the system of checks and balances and used constitutional amendments to:

- concentrate power in the Presidency
- turn Parliament into the President’s rubber stamp
- convert the courts, the police, the provincial administration and the rest of the public service into tools of the President and his cronies.

The results of this over-concentration of power in a few hands are there for all to see — corruption, land-grabbing, ethnic clashes, lynch mobs, police torture and killings, wholesale looting of public resources and economic collapse.

Kenyans now understand that good governance cannot be restored until KANU’s constitutional stranglehold is removed. The only way to restore accountable, efficient government is to start with constitutional reforms.

The problems in the current constitution are the root cause of all our political, social and economic woes. A new, democratic constitution is the only way to get to the bottom of these other problems. Until we have a government that is elected freely and fairly, limited in its powers and accountable to the people, no amount of cabinet reshuffles and “dream teams” will make any lasting difference.
The Constitutional Stalemate

After repealing Section 2A in 1991, President Moi admitted that the constitution needed to be overhauled and promised this would happen after the 1992 elections. He failed to keep this promise. On January 1, 1995, the President again promised comprehensive constitutional reforms and a people-driven review process. A few months later he went back on this promise. After relentless pressure from civil society he gave in again and promised reforms after the 1997 elections. When he signed the Constitution of Kenya Review Act 1997, he promised to support the people-driven process which the Act provided for. A few months later — on May 22, 1999 — he broke his promise again, announced that the Act was unworkable and decreed that Parliament alone should carry out constitutional reforms.

Parliament has plenty of experience making constitutional changes. It has passed 24 constitutional amendments since 1964. And the result is a constitution that totally fails to serve the interests of the people. Because of Parliament-driven constitutional reform, we have a constitution that only serves the interests of those who made it. It is a politician’s not a people’s constitution, and it has enabled politicians to tramper on our rights and enrich themselves at our expense. Our parliament-driven constitution has enabled a tiny group of selfish leaders to hijack the state and use it for their own purposes.

This is why we now have a country where a few live in luxury while the majority struggle to survive. This is why we have a country where millions of young people are out of work, where millions of children can’t go to school, where the poor die for lack of medicines, where farmers and pastoralists die of starvation, where crime, violence and corruption have become a daily reality. This is why we have a country that is teetering on the brink of collapse.

Kenya desperately needs a new constitution that serves the interests of the people. It needs a constitution that distributes power fairly, protects human rights, and makes the government accountable to the people.

Successive KANU parliaments have done nothing but wreck the constitution.

Another parliamentary review of the constitution can only result in more of the same. A nation’s constitution is a contract between citizens and their elected leaders in which the citizens are the masters and the leaders are their servants. If we now let Parliament review the constitution, we will be handing control to Moi and KANU. Can anyone doubt the kind of constitution we would get?

The Way Forward

The time has come for the people of Kenya to demand their right to control their own destiny. KANU has mistaken the people’s desire for a negotiated agreement as foolishness or fear. It has taken advantage of our patience and our desire for peace to delay real change and bring this country to the brink of disaster.

But the state of the nation now demands that we wait no longer. There is imminent danger of the country collapsing into chaos. The signs are clear — the recent wave of school violence, the clashes in Nyeri coffee cooperatives, the anger and bitterness of farmers in the sugarcane, tea, dairy and rice sectors, the growing restlessness of the manufacturing and business communities, the desperation of workers, the rampant banditry and cattle rustling in the northern half of the country, and the rising level of crime and violence in society in general.

After a lot of reflection and debate over the past several months — including discussions with Kenyans from all walks of life and all parts of the country — the NCEC is now launching a campaign to renew the struggle for democracy and national renewal. We have reconsidered and rethought the struggle in light of five key factors:

The clear, burning desire for fundamental, peaceful change that exists everywhere in the country.

The total absence of any commitment to democracy or good governance by President Moi and KANU.

The dangerous stalemate that President Moi has created by decreeing that only Parliament can amend the Constitution.

The urgent need to address the deepening poverty, crumbling infrastructure, mounting insecurity, rampant corruption and collapsing economy that are driving this country towards chaos.

The clear recognition by the vast majority of Kenyans that only people-driven, comprehensive constitutional review can provide a solid foundation for democratisation, good governance and economic recovery.

In view of these realities NCEC believes that the time is ripe to reawaken the struggle for democratic change in Kenya.
Four Guiding Principles for People-Driven Reforms

NCEC has developed a set of concrete, realistic proposals to:

- fix the flaws in the Constitution of Kenya Review Act 1997
- implement a democratic, people-driven constitutional reform process
- establish a neutral, broad-based caretaker government to facilitate democratic constitutional review, tackle the country’s most urgent political, social and economic problems and ensure a smooth and peaceful transition to a new constitutional order.

The NCEC plan calls for the people of Kenya to stand up for their political, social and economic rights. It is a plan to save Kenya from imminent collapse, restore Kenyan democracy and revive the Kenyan economy.

The NCEC plan consists of six key steps:

Breaking the current stalemate over constitutional reform by convening an independent multi-sectoral forum that truly represents all stakeholders and that has the power to renegotiate the Constitution of Kenya Review Act and take other necessary measures to set in motion a genuine, people-driven review process.

Setting up a transitional caretaker government consisting of representatives from KANU, the opposition parties, the armed forces, the private sector, and both secular and religious civil society according to a formula negotiated by the multi-sectoral forum.

Implementing an interim political reforms programme to open up democratic space and enable the people of Kenya to participate freely and safely in the constitutional review process.

Implementing an interim economic and social reforms programme to give all Kenyans access to land and economic opportunity, deliver economic and social justice and free up the energy and creativity of the people of Kenya for the immense task of national economic and social recovery.

Creating a new constitution through a people-driven, democratic process that involves Kenyans from all walks of life, all ethnic communities and all parts of the country.

Ratifying the new constitution and inaugurating a new democratic order through free and fair elections.

Steps 1 and 2 must take place as soon as possible beginning with the creation of a multi-sectoral forum of all stakeholders. Steps 3, 4 and 5 will take place simultaneously under the supervision of the caretaker government. Step 6 will mark the end of the transitional process and the beginning of Kenya’s first truly democratic republic.

The NCEC plan is bold, comprehensive and challenging. But nothing short of this will save our nation from catastrophe. Decades of mismanagement have made Kenya’s problems too large to be tackled by anything less than a sweeping programme of reforms.

It will take courage, dedication and a steadfast commitment to peaceful democratic change by the people of Kenya to implement the NCEC plan. But we firmly believe that the only alternative is the destruction of our beloved country.

This NCEC plan and the principles underlying it are set out in detail in the pages of Katiba Mpya - Maisha Mapya: A Vision for National Renewal. We hope that in the coming weeks all Kenyans will have a chance to read or hear about the details of the plan. We will be doing everything we can to make sure this happens. We are certain that as soon as our plan is understood, it will receive a groundswell of public support that will ensure success. United we will move forward. Divided we will be led closer and closer to the brink of disaster by dictatorial and selfish leaders.

We call on the people of Kenya to join together now to steer the country away from the road to disaster and begin the urgent task of national renewal.
Foreword

Kenya, our dear country, is on the verge of collapse. The economy is failing. The shilling is sinking. Local and international investors fear putting money into new businesses or expanding established ones. Most of our people are unemployed, and most of those who have jobs cannot make ends meet. The prices of everyday goods are out of reach for all but the privileged few and the ever-shrinking middle class. Most Kenyans cannot afford proper food, decent housing, new clothes, medicines, school fees or other basic needs.

Roads, power grids and telephone services are falling to pieces. Corruption is the norm at every level of society. The police and the courts cannot — or will not — protect people’s lives and property. It is only by the grace of God that Kenya has not yet collapsed into anarchy and chaos like some of our neighbours.

After endless promises by the government to revive the economy, tackle corruption and restore democracy, Kenyans have finally realised that nothing will ever be done by those who have brought this country to its knees. Our present crop of leaders have abandoned their duty to serve wananchi. They are only interested in clinging to power.

As individual Kenyans we also share the blame. We have failed to act decisively to demand democratic change. The change that we desire in Kenya will never come about until we change our attitude and accept our responsibility for the destiny of the nation. Until we see ourselves as one nation and not as competing “tribes.” Until we see the national wealth as something to be shared and developed in common, not carved up by those in power. Until then we will not be able to build a democratic society.

The new society that we hope to build must be based on the two fundamental units of a free and just society — the individual and the family. The individual and the family must accept their responsibility for building a free and just society, not wait for the state to do this for them. The individual and the family must do more, the state less. As Mahatma Gandhi said, “the more work at the bottom, the less dictatorship from the top.”

The new society that we hope to build must be based on the principle that every Kenyan individual and every Kenyan family are entitled to the fruits of their labour and a fair share of national prosperity. The new society that we hope to build demands that we work together to achieve this. Those who only look for opportunities to “eat” and who see members of other communities as competitors serve the interests of the current dictatorship, which survives by promoting tribalism and mistrust.

There are so many basic goods and services that most Kenyans lack. Clean water, decent sanitation, affordable food, proper shelter, access to land, health care and education, security for their lives and property. Why? The answer is simple. Bad governance, selfish leadership and denial of fundamental human rights and freedoms. Our leaders openly violate the wishes of those they say elected them. Others cheat and steal in the people’s name.

This lack of democracy has caused great misery to millions of Kenyans and created a national mood of frustration and hopelessness. As we prepare to enter a new millennium — which should be a time of hope and renewal — we find ourselves on the brink of a national calamity. The crisis in Kenya is now so deep, so complex and so dangerous that we can only make progress by facing up to the full extent of our problems and making a realistic plan that addresses the full scope of the crisis. It is ridiculous to pretend that we can tackle our problems with a new policy here or a better management team there.

We have to start from the root cause of all our problems — a constitution that completely fails to provide accountable, democratic government. We need comprehensive constitutional review, not just changes to a few sections here and there as KANU often suggests. And we have to review the constitution with the full participation of the people and ensure that leaders can never again hijack the state for their own selfish purposes. At the same time we cannot afford to ignore the urgent practical problems that are making life a misery for most Kenyans. Addressing these problems calls for bold and sweeping changes to public administration, economic governance and economic policy.

NCEC therefore urges the people of Kenya to rededicate themselves to democratic change through a combined programme of:

- comprehensive, people-driven constitutional reforms
- economic and social reforms
- governance reforms.

Katiba Mpya - Maisha Mpya: A Vision for National Renewal contains NCEC’s vision of how these reforms can be achieved. This booklet does not promote any party line. It is an attempt to:
• explain the present crisis accurately and objectively

• outline a practical, realistic agenda for moving forward as one nation

• present a non-partisan programme for national renewal in which all Kenyans can participate.

NCEC sincerely hopes that this booklet will be read — and seriously debated — by Kenyans from every walk of life. Above all NCEC believes this booklet will give Kenyans hope for a better future and inspiration to create that future together.

NCEC is now launching a new campaign to reawaken Kenya’s democratic soul and restart the stalled democratisation process. This campaign will focus on the three most urgent needs facing this country — constitutional renewal, good governance and economic recovery. *Katiba Mpya - Maisha Mapya: A Vision for National Renewal* raises the curtain on this campaign.

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**A NATION IN STALEMATE**

On May 22, 1999, President Daniel Toroitich arap Moi announced that the Constitution of Kenya Review Act 1997 was unworkable and declared that Parliament alone should carry out constitutional reforms. In effect the President was calling for the repeal of the Act which he had already signed into law. The stage was set for a KANU-dominated Parliament to hijack the process of constitutional reform. After years of failed promises, mixed messages and foot-dragging, it was finally clear that the President and KANU never had any intention of permitting a constitutional reform process controlled by the people.

**Why Shouldn’t Parliament Do the Job?**

At first Parliament might seem like the obvious place to carry out constitutional reforms. After all Parliament is the national law-making body. It consists of the elected representatives of the people, and Section 47 of the current constitution already gives it the job of making constitutional changes.

But as every Kenyan knows, the present Parliament does not truly represent the people. This Parliament is completely dominated by one party even though the majority of voters rejected this party. It will only approve the constitutional changes that the President and KANU want.

Moreover it was Parliaments dominated by the same party that created our current constitutional and governance problems. Between 1964 and 1990 KANU-controlled Parliaments changed the constitution 24 times — without ever consulting the people they claimed to represent and without considering the many problems these self-serving changes would create. Amendments were cooked up for the convenience of those in power and rushed through Parliament with little or no debate or thought for the consequences. The 1982 amendment that officially made Kenya a one-party dictatorship was passed by Parliament in less than two hours! It is because of Parliament’s past irresponsibility that we now need a complete constitutional overhaul to restore democracy. Giving the job back to Par-
Parliament will not bring democracy. It will only bring more power for Moi and KANU.

Even if Parliament was not dominated by one discredited group, we could not trust politicians to rewrite the constitution. They are too self-interested to be given such a basic and important task as writing the nation’s political rulebook. Being politicians they are preoccupied with their own political survival. Even during the Inter Parties Parliamentary Group (IPPG) discussions, most MPs focused only on how to get and hold on to power, not on the underlying social, economic and political problems that wananchi are concerned about.

What’s more, giving Parliament the job of making fundamental constitutional changes goes completely against modern democratic standards. The Universal Declaration of Human Rights (1948) declares that every citizen has a right to participate in governing his or her country. No aspect of government is more basic or important than making the constitution — the legal foundation of the state. When a new constitution is created or an existing one is radically changed, the people must participate. A new constitution is a new contract between the people and their institutions of government. It is not a contract between the President and Parliament.

The argument that only Parliament has the authority to change the constitution ignores three basic principles of constitutional law.

- Parliament’s powers are delegated to it by the people. The people are superior to Parliament.

- Parliament exists and operates under the constitution. The constitution creates Parliament and gives it its powers, so the constitution is also superior to Parliament.

- The laws that Parliament makes are subject to the constitution. The constitution is superior to these ordinary laws and therefore constitution-making is a completely different activity from making ordinary laws.

In Kenya’s current situation giving Parliament the task of rewriting the constitution also makes a mockery of the accepted principles of making peaceful transitions from authoritarian systems to democratic ones. South Africa is the most recent example of how such transitions ought to be made.

Like Kenya now, South Africa in the late 1980s had reached a stalemate. The economy was failing, the political system was bankrupt, and it was clear that a process of comprehensive constitutional reform and national renewal had to take place. But to make a successful transition to democracy, special transitional institutions with participation from all sectors of society were needed. It was recognised that the old order could not be trusted to create a democratic system that the people could support.

With the Moi succession looming, any constitutional debate in the present Kenyan Parliament is bound to focus only on jockeying for position in the post-Moi era, not on the true needs of the nation. We will get piecemeal, self-interested constitutional changes designed to favour a faction within KANU. Such politically motivated reforms will lead to the same kinds of problems as similar reforms did in the past. Only a constitutional review process that is open, inclusive, comprehensive, free from political interference — and controlled by the people — can give us the democratic constitution we urgently need.

Why This Booklet?

The President’s call to repeal the Constitution of Kenya Review Act 1997 was the beginning of the latest phase of a constitutional crisis that has been brewing since the early 1990s.

Since the restoration of multiparty politics in 1991, President Moi has made repeated promises of comprehensive people-driven constitutional review. But his actions, not his words, have shown his true intentions. In practice he has done everything possible to postpone constitutional reform and derail the democratisation process.

The move to abandon the Constitution of Kenya Review Act 1997 and limit constitutional reform to Parliament — where Moi and KANU know they can control the outcome — is the latest tactic in this war against democracy. The only goal of Moi and KANU is to stay in power and continue enriching themselves and their cronies at the expense of the people.

Katiba Mpya - Maisha Mapya: A Vision for National Renewal is a call for peaceful collective action by the people of Kenya. The NCEC believes that Kenya is rapidly approaching the point of no return in the struggle for democratic renewal. We urgently need to:
Part One

KENYA'S CONSTITUTIONAL CRISIS

How We Got Here: A Brief History of the Crisis

In December 1991 multipartyism was restored in Kenya after more than twenty years of de facto and almost ten years of de jure one-party dictatorship. After years of struggle by wananchi from all walks of life and all parts of the country, a KANU government reluctantly repealed Section 2A of the constitution and restored the people’s right to form and join alternative political parties.

Kenyans demanded the repeal of Section 2A because they wanted an end to one-party dictatorship. They wanted to be free to speak their minds, participate in public life, choose their own leaders and hold the government accountable for its actions. In short they wanted democracy.

They wanted the hopes that had come with independence to finally be achieved. When Kenya achieved independence in 1963, the constitution limited the powers of the executive, made the government accountable to Parliament and provided for an independent judiciary and public service. It also enabled the people to participate in future constitution-making through referendums. Though the independence constitution was negotiated by only 70 people, it had many democratic features. But without the participation of wananchi in drafting these features, there was little popular support or understanding of the constitution. This made it easier for politicians to undermine the constitution, and during the next twenty-five years these democratic features were steadily whittled away.

After independence successive KANU governments used their control of Parliament to repeatedly change the constitution without consulting the people. Having tasted power, leaders wanted to hold on to it without having to answer to the people. So they used their power to change the constitution and stay in office against the people's wishes.

To accomplish this, they cynically abused Parliament's power to make constitutional amendments. Within the brief period of twenty-five years they pushed through a series of amendments that:
But in the end the people are always stronger than their oppressors. Despite harassment, imprisonment and torture Kenyans kept on protesting, and in 1991 the government was forced to repeal Section 2A and register new political parties for the first time in more than twenty years.

This was greeted by a wave of joy. The first rally held by the Forum for the Restoration of Democracy (FORD) after the return of multipartyism drew more than a million people. Millions more throughout the country lined up to join political parties of their choice in the run-up to the 1992 multiparty elections.

But hope soon changed to frustration. KANU still controlled all the organs of the state and used this power ruthlessly during the 1992 elections to make sure no other party had a fair chance to compete. There were endless reports of stuffed ballot boxes, bribery, intimidation and other blatant forms of rigging. KANU returned to power with a large parliamentary majority even though almost two-thirds of the voters had rejected it!

After this it was clear that the repeal of Section 2A was only the first step on a long road to democracy. People realised that Section 2A was just one small part of the constitution and that true democracy could not be achieved until the whole constitution was reviewed. Despite the repeal of Section 2A the one-party constitution remained basically intact. Eight years down the road this is still the situation.

Kenyans now understand that democracy cannot be restored until KANU’s constitutional stranglehold on the state is removed. They know that as long as the constitution enables the ruling party to hijack public resources for its own purposes and manipulate the police, provincial administration, the Kenya Broadcasting Corporation and other key state offices, we will only have a bogus democracy. The recent by-elections have made this very clear.

Why the NCEC?

NCEC (the National Convention Executive Council) is the executive arm of the civil-society coalition known as the National Convention Assembly (NCA).

The NCA originated in April 1997 when a group of civic organisations, political parties, religious bodies and NGOs came together at Limuru to formulate a people’s response to President Moi’s repeated failure to keep his promises of constitutional reform.
Moi's broken promises showed bad faith and made it clear that the constitutional review process had to be taken out of the hands of the politicians and given back to the people. The NCA brought together more than 600 delegates from every part of the country. It included representatives from opposition political parties, the professions, the business community, farmers' groups, pastoralists, trade unions, NGOs, community-based organisations, the disabled, women's organisations, youth and student organisations, academics and Kenyans in exile and was the most broad-based citizens' forum ever created in Kenya. The only important stakeholder that failed to participate was KANU. By refusing to attend, the ruling party confirmed its fear of democracy and its contempt for the people.

At Limuru the NCA delegates resolved that:

- only comprehensive people-driven constitutional reforms could bring democracy to Kenya
- comprehensive constitutional reforms must begin as soon as possible after the 1997 general elections
- interim constitutional, statutory and administrative reforms were needed immediately to open up democratic space and prepare the country for comprehensive constitutional review
- the constitutional review process must be facilitated by an independent multi-sectoral forum free from political interference and involving all stakeholders.

To spearhead the movement for a people's constitution, the NCA delegates elected a broad-based National Convention Executive Council (NCEC) composed of provincial representatives, representatives of civil and political society and representatives of special interest groups. The NCEC's first action was to organise a public rally at Nairobi's historic Kamukunji grounds to present the NCA's programme to the people and mobilise support. The choice of Kamukunji symbolised the movement's continuity with Kenya's freedom struggle since the colonial period.

The rally was held on May 3, 1997. It was attended by hundreds of thousands of wananchi who wanted to hear about the NCA agenda and express their support for democratic, peaceful change. In response the KANU government sent in the GSU. The rally was violently disrupted, and hundreds of Kenyans who only wanted to peacefully discuss their rights and the future of their country were viciously beaten up. This showed wananchi what KANU really felt about democracy.

But the rally also forged a new solidarity between wananchi and democracy activists. It enabled a peaceful mass action campaign to commence which dominated the Kenyan political landscape for the next four months and kept the reform agenda at centre stage despite ruthless brutality from the security forces and the notorious Jeshi la Mzee. Finally the campaign forced the government to compromise.

The NCEC-led mass action campaign of 1997 was a landmark in the Kenyan struggle for democracy. It showed that Kenyans could be mobilised in huge numbers for peaceful protest and that the government sooner or later would have to respond with something more constructive than tear gas, rungus and bullets.

Though KANU succeeded in sidetracking the reform campaign by means of the IPPG deal with opposition parties, this move only bought time. It postponed but could not derail the people's demand for democratic change. The IPPG deal only addressed a small part of the reform agenda — and most of the deal has still not been implemented — but it showed that mass action could force the government to act. Now, after two more years of failed promises and foot-dragging, it is time to renew the campaign and build on the progress we made and the lessons we learned in 1997.

The NCEC and Non-Violence

Since 1997 NCEC has been the object of an unending campaign of smears and harassment by Moi and KANU. Moi and KANU want to discredit and isolate NCEC because of its moral strength and massive political good will, which threaten their continued dictatorship. They know that opposition parties can be divided and some opposition politicians bought off, but after 1997 they also know that the people cannot be resisted when they demand democracy with one voice.

In desperation the KANU propaganda machine — fueled with taxpayers' money — has tried to portray NCEC as a violent revolutionary conspiracy. KANU hopes this will scare away our supporters and demoralise us. But the strategy has failed for one simple reason. It is completely untrue, and the people know this.

Far from being violent, the NCEC has always advocated peaceful, legal methods of change. We want a peaceful transition to democracy because
we know that violence only benefits the dictator and that democracy cannot develop or survive without peace. This is why NCEC is committed to non-violent methods only.

Above all NCEC believes that the rule of law is the indispensable key to democracy and economic development. For more than 30 years successive KANU governments have abused the rule of law, and the consequences are there for all to see — corruption, land-grabbing, ethnic clashes, lynch mobs, police torture and killings, wholesale looting of public resources by those in power.

By contrast the NCEC’s vision for Kenya is of a peaceful, multi-ethnic, multiparty democracy in which the rule of law applies to everyone. This is the only way to ensure orderly and sustainable national development. Violence can never achieve this vision.

The only people with a motive for pushing this country into anarchy and chaos are those who fear democracy. By blocking people-driven constitutional reforms and harassing anyone lobbying for peaceful democratic change, KANU leaders reveal their fear of democracy. They show that they are even prepared to wreck the country for their own selfish reasons.

The same anti-people leaders argue that by calling for a people’s forum to renegotiate the Constitution of Kenya Review Act, the NCEC is advocating an unconstitutional route to constitutional review. This argument comes from the same fear of democracy. It is intended to shipwreck the constitutional reform process and deny wananchi their fundamental right to participate in making a new constitution.

This right is recognized internationally as a universal standard for democracy. It has been employed successfully throughout the democratic world, most recently in South Africa as well as in Uganda. Kenyans deserve no less.

It is also clear that nobody — especially politicians — should have unchecked power to rewrite the constitution. A constitution is a country’s rule book. It defines the rules of government and law-making. We cannot trust politicians (either from the ruling party or the opposition) to write these rules. Because of their interest in political power (either keeping the power they have or capturing it from their rivals) they can never be neutral. They are bound to try to write the constitution to promote their own political interests. In the decade since the repeal of Section 2A, they have proved time and again that they cannot be trusted with the job of constitutional review.

The NCEC and the Way Forward

The constitutional review process set out in the Constitution of Kenya Review Act 1997 has now been stalled for two years. We will soon be at the half-way point of President Moi’s current — and constitutionally his last — term in office. To avoid the disaster of another round of futile elections in a KANU-controlled political environment — and the even more dangerous prospect of President Moi trying to stay on beyond 2002 — we must find a way out of the constitutional stalemate now!

After a lot of reflection and debate over the past several months — including many discussions with Kenyans from all walks of life and all parts of the country — the NCEC is now ready to launch a campaign to renew the struggle for democracy. We have reconsidered and rethought the struggle in light of five key factors that define the current situation in Kenya:

The clear, burning desire for fundamental, peaceful change that exists everywhere in the country. We have found this mood at all levels of society, in all ethnic communities and among every occupational group. It runs deep and strong. It is the best hope we have for putting together a strong, broad-based movement for democratic change.

The total absence of any commitment to democracy or good governance by KANU. President Moi’s attempt to repeal the Constitution of Kenya Review Act in decree clearly shows that he has no interest in anything except staying in power. The recent cabinet reshuffle is only the latest trick in his never-ending game of avoiding real change.

The dangerous stalemate that President Moi created by decreeing that only Parliament can amend the Constitution. This stalemate is not only delaying much-needed constitutional reforms, it is threatening the whole Kenyan democratisation process. And since constitutional reform is a necessary first step to economic recovery, the constitutional stalemate also threatens our economic future.

The urgent need to address the deepening poverty, crumbling infrastructure, mounting insecurity, rampant corruption and collapsing economy that are driving this country towards chaos. The longer we wait for constitutional renewal the closer we move to the point of no return. President Moi’s cabinet reshuffles and “dream team” appointments are tricks meant to cheat the people into thinking that change is underway. In reality nothing of substance can be accomplished until basic constitutional and governance issues are addressed.
Katiba Mpya - Maisha Mpya

The clear recognition by the vast majority of Kenyans that only people-driven, comprehensive constitutional review can provide a solid foundation for democratisation, good governance and economic recovery.

In view of these realities the NCEC firmly believes that the time is now ripe to reawaken the struggle for democratic change in Kenya. The people demand it. The politicians are divided, disorganised and unable to provide constructive leadership. The country is on the brink of political and economic collapse. The time has come to safeguard our lives and our future. We must act now.

An Action Plan for People-Driven Reforms

NCEC has developed a set of specific proposals to:

- fix the flaws in the Constitution of Kenya Review Act 1997 to ensure that the review will be democratic, efficient and free from political interference

- address the dangerous political, social and economic problems that have been allowed to almost overwhelm this country

- establish a neutral, broad-based caretaker government able to facilitate and safeguard democratic constitutional review, tackle the country’s urgent political, social and economic problems and ensure a smooth and peaceful transition to a new constitutional order.

Together these proposals form NCEC’s National Rescue Action Plan. This plan calls for the people of Kenya to stand up for their political, social and economic rights. It is a plan to save Kenya from imminent collapse, restore Kenyan democracy after years of dictatorship and revive the Kenyan economy after years of mismanagement and corruption. It is a call to Kenyans to rekindle their faith in the people’s ability to create a truly just society. Above all the NCEC plan calls for reawakening Kenya’s democratic soul so that we can all move forward together to a brighter future.

A Vision for National Renewal

Four Guiding Principles of People-Driven Reforms

To make NCEC’s National Rescue Action Plan succeed, we have to follow some basic guiding principles that everyone committed to democratic change accepts. NCEC proposes the following four guiding principles for the struggle:

(1) Inclusiveness and unity

All pro-democracy forces must work together. All individuals and organisations promoting democratic change must form an open, inclusive and participatory “freedom network” which will have nothing to do with religious, ethnic or political rivalry and will keep its sights firmly on the goal of building a democratic future for all. Everyone inside and outside the country who is committed to this goal and ready to lay aside personal, ethnic, religious and political differences for the sake of the struggle must be welcome to participate on an equal footing.

(2) Commitment to a people-driven process

Democratic renewal must start with a people-driven, constitutional review process. A democratic constitution will not bring democracy by itself. However it is the necessary foundation for other democratic reforms. The new constitutional review process must be independent, people-based and free from interference or obstruction by Moi, KANU or any individual, political party or pressure group.

(3) Commitment to comprehensive reforms

Democratic reforms must be comprehensive. Kenyans have had thirty-five years of piecemeal constitutional changes for short-sighted political goals. The result is a constitution that mixes incompatible systems of government, is full of inconsistencies and contradictions and gives far too much power to the executive. This constitution needs a complete overhaul.

And since this constitution has enabled all kinds of other undemocratic institutions and practices to develop in Kenya, comprehensive constitutional reform has to be matched by comprehensive political, economic
means substandard education and health care — if they are available at all. It means unemployment, crime, disease and famine.

As the richest century in human history draws to a close, a century that has seen radical improvements in living conditions and tremendous economic growth, the lives of most Kenyans are worse than at independence. And getting even worse by the day. Every economic and social indicator makes it clear that the country is on the verge of collapse unless our present style of governance is replaced with one that is efficient, honest and accountable to the people.

Good governance does not come from cabinet reshuffles or “dream teams.” It has to be built on a foundation of laws and institutions starting from the constitution. This is because the constitution is the fundamental law that creates the institutions of the state and gives all the other laws their force.

After thirty-six years of constitutional tampering by KANU, our current constitution is riddled with serious problems. It is like a foundation that has been eaten away. It can no longer provide a solid base for good governance and national prosperity.

Only a people-driven, comprehensive review of the constitution can build a stable, democratic foundation. And this foundation has to be put in place now to prevent the explosive situation in the country from collapsing into violence, anarchy and chaos. The signs of collapse are already clear — in the spiraling rates of violent crime, the wave of school riots, the lynchings in our streets and estates, the appalling violence against women and children in our homes, the scourge of cattle-rustling and banditry in rural areas, the unmistakable tension and anger in our streets.

Yet Kenyans have been complacent. The fact that the country has held together since independence makes us take stability for granted. But ever since the ethnic clashes during the run-up to the 1992 elections the writing has been on the wall.

The possible scenarios that could soon unfold include the Kenya of the 1950s (with many of the factors that produced Mau Mau also existing today), present-day Indonesia (ethnic separatism and endless civil strife), Sierra Leone (long-term insurgency and civil war) or Somalia (wholesale disintegration of the state). It is crucial for the Kenyan people to understand that we really are on the brink of disaster and that we must act now.

Where We Are Now: Kenya’s Dangerous Predicament

At independence in 1963, Kenya’s per capita income was US $400 (the equivalent of Ksh 30,000 today). At that time Kenya was roughly on a par with South Korea, Malaysia, Singapore and other leading-edge developing countries. Since then these countries have forged ahead. They have developed into newly industrialised states with per capita incomes approaching those of the developed world.

And Kenya? Today our per capita income is US $280 (about Ksh 20,000). After more than 35 years of independence our average income has dropped by a third!

At the same time a small group of politicians, their families and cronies have acquired enormous wealth. With billions looted from state corporations, vast farms and ranches carved from public lands and a slice of every IMF, donor or investment deal, this tiny minority enjoys unbelievably lavish lifestyles that few even in the developed world can match — huge homes with every possible luxury — the best education and health care that money can buy — cars that cost more than the average Kenyan worker’s lifetime salary.

But for over 90% of the population life means a crowded shack in a squalid slum without running water, electricity or modern sanitation. It
Part Two

WHERE DO WE GO FROM HERE?

To restart the democratisation process and get safely past the present dangerous stalemate, Kenyans have to succeed in two key tasks. First we have to steer our way through the obstacles and dangers of the current situation. Then we have to start building a secure, democratic and prosperous future to hand down to our children. These two tasks are our duty both as citizens and as parents, but they will not be easy to carry out. Already Kenyans have had to struggle hard and sacrifice a lot to restore even the limited democracy we now have.

The 1990s have taught us two basic lessons. First President Moi will never give in to democratic changes without enormous pressure. Second he will always take the first opportunity to try and roll back any changes he has been pressured into. Because of this it is very important to base the struggle for democratic renewal on firm, clear principles. We cannot afford to enter the ring without having a clear picture of what we want and how we are going to accomplish it.

From the lessons we have learned over the past several years, it is clear that we need to base the renewed struggle for democracy on four pillars:

- a unified movement of all democratic forces. To work for the salvation of the nation rather than for limited political goals, we need a movement of people from all ethnic groups, all religious faiths, all occupations and all democratic political positions working together in solidarity.

- a government which does its job and has the support of the people. Over the past two decades the KANU government has abandoned its responsibility and permitted the country to slide steadily towards catastrophe. Unless we immediately put in place a government that listens to the people and addresses their needs, our country may not exist by 2002.

- an economy which works for all citizens. The levels of poverty and economic inequality in Kenya have reached the point where an explosion can occur at any moment unless the balance is redressed.
Six Steps to Democratic Renewal

The NCEC has developed an action plan for democratic renewal in Kenya. This plan is bold, comprehensive and challenging. But nothing short of this will save our nation from catastrophe. Decades of mismanagement have made Kenya's problems too large to be tackled by anything less than a sweeping programme of reforms.

It will take courage, dedication and — above all — a steadfast commitment to peaceful democratic change by the people of Kenya to implement the NCEC plan. But we firmly believe that the alternative is the destruction of our country.

The NCEC action plan consists of six key steps:

• Breaking the current stalemate over constitutional reform
• Setting up a transitional caretaker government
• Implementing an interim democratic reforms programme
• Implementing an interim economic and social recovery programme
• Creating a new constitution through a people-driven, democratic process
• Ratifying the new constitution and inaugurating a new democratic order through free and fair elections.

Steps 1 and 2 must take place as soon as possible beginning with the creation of a multi-sectoral forum of all stakeholders. Steps 3, 4 and 5 will take place simultaneously under the supervision of a neutral transitional institution. Step 6 will mark the end of the transitional process and the beginning of Kenya's first truly democratic republic.

The following pages outline how the NCEC sees these six steps unfolding in the coming months.

Step One: Breaking the Stalemate

The constitutional review process established by the Constitution of Kenya Review Act 1997 has been stalled for almost one year. Nothing can be accomplished until this stalemate is broken. The failure of the process has enabled President Moi and others who are afraid of democracy to argue that only Parliament should review the constitution. They want to take advantage of the stalemate they have engineered to put a stop to people-driven constitutional review once and for all.

The stalemate can only be broken by rewriting the Act to enable a genuinely democratic review process to get underway. Trying to relaunch the same review process will not work.

The 1997 Act is too full of gaps, anti-people provisions and other flaws. It was hastily drafted with no thought for how it would actually work in practice. The drafters of the Act had no interest in making it work. In fact their interest was in making sure it did not work.

Handing constitutional review back to Parliament is not an option either. This would replace stalemate with checkmate. It would guarantee that no meaningful constitutional review would take place. Thanks to a one-sided electoral environment Moi and KANU completely control the present Parliament. They will use this control to make sure that any constitutional changes only help them stay in power against the wishes of the majority of the people — as they have always done.

It is also reckless to argue that reforms can wait until President Moi leaves office. While we wait, the disintegration of the country will continue and accelerate. Petty power games will drag on in parliament while Kenya falls apart. The country is in a critical condition. Kenyans cannot afford to wait any longer to begin the process of national recovery. Twenty-one years of one man's misuse have brought us to the edge of catastrophe. Do we really want to give him two more years to finish the job?

And unless we act now, the next elections will take place in the same undemocratic environment. This is likely to produce another President who has been rejected by most of the voters. Moreover President Moi's successor will inherit the same flawed constitution with the same exces-
sive presidential powers. He or she could easily use these powers to subject Kenyans to another ten years of constitutional hide and seek — or even to install a new dictatorship.

The only way forward — and the only hope for democratic renewal in Kenya — is to enable all the stakeholders to participate in constitutional review. The first step is to fix the flaws in the Constitution of Kenya Review Act and then relaunch the constitutional review process without further delay. There is clearly a national consensus on the need for comprehensive people-driven constitutional reform. This can only be achieved through an inclusive and popular forum representing all stakeholders.

The people of Kenya know that they cannot trust politicians alone to write a democratic constitution. There can be no doubt about this. People-driven constitutional review is only opposed by a tiny self-seeking minority that fears democracy.

In its present form the Constitution of Kenya Review Act 1997 already reflects the consensus on the need for people-driven constitutional review. The three-tier system of commission, district forums and national forum proposed in the Act is an example — however imperfect — of the kind of inclusive, people-centred structure that is needed. The stakeholder meetings at Safari Park and Bomas of Kenya failed to agree on how to move forward not because people-driven review is unworkable but because politicians would not allow a people-driven process to be agreed on. They got away with this because the Constitution of Kenya Review Act 1997 is so full of gaps and loopholes.

However the shortcomings of the Act can be fixed. The NEC has drafted a model bill — The Constitution of Kenya Review (Amendment) Bill 1999 — which shows how this can be done and how a truly participatory and independent, people-driven constitutional review process can be created.

The key to moving forward is a self-governing multi-sectoral forum that enables all stakeholders to renegotiate the review process. This forum should be facilitated by volunteers from civil society led by a team of respected national figures such as religious leaders whose impartiality is not in question.

One very important difference from the Safari Park and Bomas of Kenya forums will be necessary. The government will have to be given a specific period of time in which to accept a new multi-sectoral forum. If it fails to respect this deadline a mass action campaign will commence to pressure the government to recognise the forum and accept whatever agreement the forum negotiates.

How Will the Multi-Sectoral Forum Work?

Once the multi-sectoral forum is established and recognised by the government, the most important thing will be to ensure that it operates independently. It must have the power to:

- elect its own chair
- decide on its own procedures for accrediting members
- form and appoint committees and any other bodies that may be needed to enable it to do its work.

In other words the forum must be free from interference by the government or any political party. This is the only way to ensure that a new constitutional review process is negotiated in good faith.

The multi-sectoral forum will include representatives from every sector of society including political parties, professional groups, traders’ and manufacturers’ associations, trade unions, NGOs, women’s organisations, special interest groups and community-based organisations.

The multi-sectoral forum will have five key tasks:

First it will renegotiate the Constitution of Kenya Review Act 1997 to fix the flaws in the Act and make the review process workable and democratic.

At this point it will be extremely important to make sure that the legality of the process cannot be questioned. Section 47 of the constitution — which contains procedures for making amendments in Parliament — will have to be changed to specifically empower an independent body to draft constitutional amendments, put them before the people in a referendum and require Parliament to pass them without any alterations after they are ratified by the people.

One point has to be emphasised. These changes to Section 47 are not needed in order to make people-driven constitutional review legitimate. They only ensure that the process is legally protected and cannot be sabotaged later on by technicalities. The citizens already have a natural right to participate in constitution-making and to have the final say on constitutional changes. No constitutional provision or other law can either grant or take away this right.
The multi-sectoral forum will then negotiate the formation of a neutral transitional institution to act as a caretaker government during the period of constitutional review. To ensure that this caretaker government has the necessary powers, the multi-sectoral forum will have to negotiate some further amendments to the current constitution.

The multi-sectoral forum will also negotiate a transitional justice mechanism to grant immunity from prosecution to politicians, government officers, and others who may have committed political crimes in the past. A transitional justice mechanism is needed to encourage everyone to support the constitutional review process and to promote national healing and reconciliation. Before the mechanism can operate, some further interim constitutional amendments will have to be negotiated by the forum.

To enable Kenyans from every part of the country and all levels of society to participate freely in the constitutional review process, the multi-sectoral forum will also have to negotiate a package of interim democratic reforms. These will involve further changes to the present constitution as well as to various other laws and key institutions such as the police, the provincial administration and the courts. The goal will be to create maximum democratic space during the transition period.

Finally the multi-sectoral forum will play the role of "citizen's watchdog" throughout the period of constitutional review in order to resolve any disputes or difficulties that may arise.

Step Two: Setting-Up a Caretaker Government

Kenyans know very well that KANU rigged both the 1992 and 1997 general elections. The KANU government is in office despite having been rejected by the majority of the people. This government has no legitimacy and no mandate to rule. Its only concern is to hang on to power by fighting constitutional and democratic change. It cannot be trusted to govern the country during the process of constitutional review. Therefore while the constitutional review process unfolds, a transitional institution will be needed to govern the country on a caretaker basis.

Unlike the present government the caretaker government will be fully representative and competent to govern. It will include representatives from KANU, the opposition parties, the armed forces, the private sector, and both secular and religious civil society. The formula for representation will have to be negotiated by the multi-sectoral forum.

The caretaker government will not be a coalition government or "government of national unity." Coalition or national-unity governments only contain politicians. But the institution which takes on the critical job of steering the country through the transition to a new constitutional order has to be impartial. It cannot have any self-interested agenda. A coalition government or government of national unity — a government of politicians — will only end up in a struggle for power. In contrast a caretaker government that includes representatives of all stakeholders will be able to act objectively and work for the good of the whole country rather than the interests of political parties. This is the only way to achieve the comprehensive people-driven democratic change that is needed.

The roles of the caretaker government will be to:

- pass the interim constitutional reforms negotiated by the multi-sectoral forum
- implement the transitional justice programme
- implement the multi-sectoral forum's interim democratic reforms agenda
- implement the multi-sectoral forum's economic recovery programme
- implement and safeguard the constitutional review process negotiated by the multi-sectoral forum.

Thus the agenda of the caretaker government will address five related areas:

- interim constitutional reforms to give the constitutional review process and the transition process a firm legal basis
- transitional justice to reassure those who have suffered that peace, justice and reconciliation are the way forward and to enable politicians and others who may have committed political crimes to support the transition process
- security measures to create a safe, conducive environment for constitutional review and ensure that unscrupulous leaders cannot sabotage the process using "tribal clashes" or other terror tactics
of citizens, a package of interim democratic constitutional, legal and administrative reforms will first have to be carried out.

It will be up to the multi-sectoral forum to negotiate the specific items of the interim democratic reforms programme and pass this programme to the caretaker government for implementation. NCEC believes that the reforms agreed by the Inter-Parties Parliamentary Group (IPPG) in 1997 provide a good starting point.

There is a large “balance” of IPPG reforms which have still not been legislated and implemented two years down the road. This confirms NCEC’s view that IPPG was only a smokescreen to enable KANU to buy time and divide the pro-democracy forces, which were at the point of forcing the government’s hand. Nevertheless if these reforms were actually passed as law and implemented, they would go a long way to ensuring a secure, people-friendly political and administrative environment for constitutional review. Without such an environment the review process cannot be counted on to produce a new constitution that truly reflects the wishes of the people and has their support.

Ten Conditions for Democratic Constitutional Review

In NCEC’s view a conducive environment for people-driven constitutional review will have to meet the following ten conditions:

1. All laws restricting freedom of association must be repealed. Every Kenyan must be able to form or join any political party or other group advocating any peaceful programme.

2. All pending applications to register political parties, NGOs, cooperatives or other organisations must be granted and the registration processes streamlined and made purely a matter of record-keeping. As long as the objectives of an organisation are lawful and peaceful, it should have a right to be registered and to operate freely.

3. All laws restricting freedom of expression must be repealed. Every Kenyan must be able to express his or her opinions on any subject freely, openly and safely. Every Kenyan must have access to a variety of media. All pending applications for broadcast licenses should be granted immediately and the application process should be streamlined and depoliticised. The only considerations should be technical ones.

Step Three: Implementing the Interim Democratic Reforms Programme

In addition to the undemocratic features of the current constitution there are many ordinary laws and administrative practices that restrict citizens’ freedoms. In order to create an environment in which democratic constitutional review can take place safely and with the full participation...
4. All laws restricting freedom of movement must be repealed. Every Kenyan must be able to travel to any part of the country at any time without any restrictions. It is the right of all Kenyans to live and work anywhere in Kenya. The politics of "settlers" and "natives" must be stopped once and for all. All internally displaced people must be resettled at the beginning of the transition period and compensated for their losses.

5. An independent citizens' police commission must be set up with powers to restrain the police from overstepping their authority and to take action against any police officer who violates a citizen's rights. A retraining programme to make police officers more people-friendly and more accountable must also be implemented.

6. Pending the complete replacement of the provincial administration by locally-run democratic bodies, the powers of the provincial administration must be curtailed in accordance with democratic principles.

7. A competent and politically neutral person of unquestioned integrity should be appointed as Chief Justice and given a mandate to ensure that the courts are not only efficient but also provide justice without fear or favour. The priority task of the Chief Justice will be to rid the judiciary of corruption and make justice available to all.

8. A list of national priorities must be compiled by the people's forum to guide the country in dealing with urgent non-political issues. While we address constitutional reforms, we also have to take drastic measures to curtail the spread of HIV/AIDS, drug abuse and other social evils.

9. Public funds should be made available to a consortium of non-partisan NGOs to conduct intensive civic education throughout the country on the constitutional review process, human rights and the principles of democracy.

10. At all levels of society and all areas of the country, coexistence, reconciliation and harmony must be preached and seen in action. It will be difficult to undo the ethnic mistrust and class hatreds stirred up in the past. The multi-sectoral forum, the caretaker government, the constitutional review bodies and the other transition institutions must show the way both in their composition and their actions.

Interim democratic reforms are also needed to support economic recovery. Economic recovery has to benefit everyone, not just a few big players at the top, but without a democratic political and administrative environment, ordinary citizens will not be able to take advantage of economic reforms. As long as the police or city council askaris can demolish kiosks at will, even in defiance of court orders, as long as land-grabbers can steal what they please, as long as citizens cannot invest safely or feel that their savings are secure, economic reforms will only be a sham.

**Step Four: Implementing an Interim Economic and Social Recovery Programme**

The caretaker government will also implement a programme of economic and social reforms drawn up by the multi-sectoral forum. The purpose of these reforms will be to halt the downward slide of the economy, jumpstart a process of national recovery and restore economic and social justice for wananchi.

The Kenyan economy is in its present critical state entirely because of government mismanagement and corruption. Kenya has the financial, material and human resources to build a prosperous, dynamic society and to enable all its people to create wealth and enjoy a decent standard of living. But more than twenty years of economic policies designed only to benefit the favoured few have landed us in a very deep hole. It is not going to be easy to climb out of. It will take much more than cabinet reshuffles and "dream teams" to turn the situation around and prevent the total economic collapse that is now looming.

The first priority is for the multi-sectoral forum to make a thorough country-wide audit of our economic problems, the resources available to address them and the best ideas for tackling them. A minimum economic recovery programme can then be drawn up for the caretaker authority to implement.

The NCEC is now working on economic recovery proposals to be submitted to the multi-sectoral forum. Other civil society organizations have also developed sets of proposals such as the Centre for Law and Research International's Towards a National Citizens' Charter and Agenda and the Institute of Economic Affairs' Our Problems, Our Solutions. Many other Kenyan organizations and individuals have the experience and know-how to contribute to the challenge of developing an economic recovery strategy.
What is missing is a competent government that is committed to genuine economic reforms and economic justice and has the popular support to implement an effective economic recovery programme. This is why a caretaker government is a critical part of the NCEC economic recovery plan. Kenyans cannot afford to wait until a new constitution is in place before turning to our economic problems. These problems are now so severe that by the time we have a new constitution it may be too late.

Economic Recovery vs Economic Justice

The NCEC has a broad vision of economic wellbeing. We believe that national prosperity should be measured by how fairly and evenly wealth is distributed across social classes, occupational groups, ethnic groups and geographical regions. No national economy can be truly strong or healthy unless all citizens have the right — and realistic opportunities — to create and enjoy wealth.

The economic policies followed by successive KANU governments have:

- impoverished the vast majority of Kenyans
- created huge economic disparities between different regions, different cultures and different social classes
- done tremendous damage to the environment
- created a land crisis in which millions of Kenyans are treated as squatters while a few politicians, well-connected tycoons and foreign corporations own immense tracts of land
- created a state-led economy riddled with mismanagement, corruption and waste
- destroyed the confidence of both local and foreign investors
- created massive unemployment and underemployment especially among the youth
- devastated the agricultural sector and the rural economy
- prevented ordinary Kenyans from building an indigenous economic base
- undermined the confidence and creativity of the majority of Kenyans.

Since agriculture is the backbone of the Kenyan economy, any economic recovery programme has to start with land reforms. Land ownership and access are the nation’s key economic issues. Land issues are also the main causes of tension and conflict nationwide. The land crisis is the result of irresponsible and corrupt government policies that have enriched a favoured few at the expense of ordinary Kenyans. After more than thirty-five years of land-based patronage politics, issues of land ownership and access have become a powderkeg that could ignite at any moment. As a minimum the following measures are needed immediately to put a stop to further injustice and assure Kenyans that land is every citizen’s right, not just a privilege for the well-connected:

- a reasonable ceiling on private individual land ownership
- repossession and redistribution of all public lands that have been allocated irregularly
- a freeze on all evictions of all rural and urban “squatters” until the land question is comprehensively resolved
- provision of title deeds to all “squatters” for land which they have occupied and used productively.

An independent citizens’ land commission should then be set up to study land issues and develop a comprehensive solution. The resulting policies must be based on two basic principles:

All Kenyans have a right to land

Management of public lands must be in the hands of an independent and accountable body free from political interference and with full powers to protect environmentally sensitive areas, prevent land-grabbing and protect the rights of minority and indigenous communities.
Fair land ownership and access are the keys to building a sound agricultural economy in the long term. But after years of government neglect, reviving Kenyan agriculture requires addressing the following urgent priorities:

- provision of water, roads and other basic agricultural infrastructure, particularly in marginalised areas
- creation of sound, citizen-managed marketing systems for agricultural produce in order to ensure fair returns to farmers, particularly small-scale and peasant farmers
- provision of low-cost credit to small-scale and peasant farmers to enable them to develop their farms and maximise sustainable production.

In relation to the economy in general, the following measures to jumpstart economic recovery should be included in the minimum economic recovery programme:

- a massive emergency public works programme to rehabilitate essential infrastructure and alleviate the unemployment crisis
- reduction in the VAT base rate to stimulate consumption
- liberalisation of telecommunication policy to enable Kenya to participate in the global “e-commerce” revolution before it is too late
- a freeze on all privatisation of state corporations until a new State Corporations Bill and an independent body to supervise the process are in place
- nullification of all corrupt state sell-offs that have already taken place
- removal of all legal and other obstacles that affect women’s right to invest, own property, operate businesses or find employment.

The NCEC does not support centralised state-led economic development. We believe in citizen-led development. The main economic role of the state should be to enable and empower citizens to work, save and invest. Instead of stifling enterprise with state-run marketing boards, networks of parastatals and excessive regulations— which are all magnets for corruption and waste— the main job of the state should be to free up the energies and enterprise of ordinary citizens and let them, not the state, create employment and wealth.

However NCEC recognises that after so many years of mismanagement and corruption there are many obstacles that prevent free-market reforms from being fair or efficient in Kenya. These obstacles include high information costs, entrenched monopolies and cartels, deep-rooted inequalities of wealth and power and unfair access to land, capital, credit, education and training. As a result it is very difficult if not impossible for the majority of Kenyans to exercise their economic rights or take advantage of economic opportunities.

Therefore the minimum economic recovery programme must at least make a start at reducing these entrenched economic inequalities and providing economic opportunities for all Kenyans. Just as Kenya needs a level playing field in the political arena, so we also need a level economic playing field. It is the duty of the state to ensure both.

This does not mean going against economic liberalisation and the free market. On the contrary it means making the free market genuinely free rather than leaving it tilted in favour of a tiny minority with entrenched advantages. Even the World Bank concedes that the state needs to play this “corrective” role.

NCEC believes that addressing questions of poverty and inequality are central to Kenya’s democratic renewal. But we are totally opposed to the KANU style of state economic intervention. In particular we oppose KANU’s continuation of the cynical ethnic-based patronage policies which have caused such inefficient and unjust allocation of resources in Kenya since colonial times.

NCEC believes that the best way to address poverty and inequality is through innovative strategic policies that open the Kenyan economy to international competition while ensuring that illegal dumping of imports does not damage key sectors. Our country has much to learn from the economies of Asia which created economic growth by providing performance-based subsidies and low-cost credit to build industrial capacity.

Kenya should also reconsider the donor-driven decision to reduce state support to sectors such as health, education and training. Making these services accessible only to those who are already well-off— often through corruption, the worst form of state subsidy—denies the vast majority of the population their right to economic opportunity. It is also a false economy.
to reduce public investment in essential services in the name of economic freedom. People need health care, education and training in order to work and invest productively. Thus investing in these key social services leads to economic benefits — increased productivity, higher rates of savings, more efficient management and a more vibrant small-scale enterprise sector — which more than repay the original investment.

It is also misleading to argue that we cannot afford high-quality, accessible social services. Kenya’s social welfare programmes have been manipulated by the government in order to promote ‘tribal’ agendas and siphon public funds into private pockets. Ending such waste and corruption is crucial to economic recovery, but we should not abandon key social services just because KANU has abused them. When we have a democratic constitution and an accountable government, social welfare programmes will be run for the benefit of the people. And when the government puts an end to the massive corruption that has drained Kenya of its wealth, there will be resources available to invest in improved services.

**Step Five: Creating a New Constitution**

While the caretaker government implements the interim democratic reform agenda and minimum economic recovery plan, the process of constitutional review will proceed independently. The caretaker government’s role will be to “guard” the process to ensure that it takes place freely, safely and democratically.

The review process will be a people-driven one — and therefore the new constitution will be one which the people have decided on. It will be a constitution which the people not the politicians, constitutional experts or other interest groups, want.

Nevertheless the new constitution must reflect key democratic principles. Otherwise the whole exercise will be in vain. Without in any way foreclosing on the people’s right to have the constitution they want, the NCEC proposes the following fundamental principles to guide the review process and ensure a truly democratic outcome:

- The citizen is the true source of the power and legitimacy of the state.
- Kenya is one sovereign state in which all citizens are equal.
- The constitution is the supreme law of the land. It takes precedence over all other laws and is binding on all citizens, all corporate bodies and all organs of the state at all levels of government.
- The rights and freedoms provided for in the constitution are available to all citizens equally.
- The constitution will prohibit all forms of discrimination on the basis of race, ethnicity, sex, age, disability, health status, family background, marital status or religion.
- There will be representative government at national and local levels freely elected at regular intervals according to the principles of one-person one vote and fair representation of all sectors of society.
- There will be a clear and appropriate separation of powers between the executive, legislative and judicial branches of government.
- The powers of the various branches of government will be limited. There will be appropriate checks and balances to ensure good management, transparency and accountability.
- Society will be governed by the rule of law, and the laws will apply equally to everyone.
- There will be strong constitutional provisions to ensure that the judiciary is competent, independent and impartial and has the power to safeguard and enforce the constitution and all laws of Kenya that are consistent with the constitution.
- The legal system will ensure equality of all before the law and legal processes will be fair, open, and as straightforward and swift as is consistent with the protection of citizens’ rights.
- The constitution will guarantee the right to freedom of information so that there is open, accountable and transparent administration at all levels of government.
- Citizens’ rights to form, join or maintain associations of common interest for any lawful purpose, including political parties, trade un-
ions and linguistic, cultural and religious associations, will be protected absolutely.

• The right of employers and employees to join and form employer organisations and trade unions and engage in collective bargaining will be recognised and protected.

• The right of everyone to fair labour practices will be protected.

• The independence and impartiality of the Public Service Commission, the Central Bank, the Attorney General, the Public Service Commission, the Controller and Auditor General and other constitutional offices will be guaranteed.

• There will be an efficient, non-partisan, independent and professional public service broadly representative of the Kenyan nation, operating on the basis of fairness and providing equal access to all services and benefits.

• Every member of the security forces (police, military and intelligence) will be required to perform their functions and exercise their powers in the national interest and will be prohibited from promoting partisan political goals.

• The constitution will provide for an independent, impartial electoral commission with adequate powers and resources to ensure free and fair elections.

• Any future review and amendment of the constitution will require special procedures involving participation by ordinary citizens at both drafting and ratifying stages with special majorities needed to ratify or pass any amendments into law.

Even though the review process will have been democratic, inclusive and broad-based, it will still be necessary to ask citizens to approve the final result. This should be done through a nationwide referendum in which each registered voter can participate.

To ensure that the new constitution has broad backing, ratification will require a vote of at least 65% countrywide. This is an international standard for democratic constitutional change. If this majority is achieved, Parliament will then be required to pass the new constitution into law without any alteration. The requirement for presidential assent and publication in the Kenya gazette are mere formalities and should be done within the shortest possible time. At this point the new constitution will become the law of the land.

This procedure is a great improvement on the one adopted by the Constitution of Kenya Review Act 1997. The Act states that when the Review Commission submits its report to the Attorney General, the commission, the district forums and the national forum will all be dissolved and the new constitution will then go directly to Parliament. This would allow KANU to use its alliance with the NDP and part of FORD Kenya to reject the draft constitution or change it beyond recognition. This is why the NCEC proposes to first put the new constitution to a vote by the people. If the people ratify it with a 65% or greater majority, it will be appropriate to require Parliament to pass the new constitution without any amendments. The people will have spoken.

**Step Six: Ratifying the New Constitution and Inaugurating a New Democratic Order**

Once the constitutional review process is completed, the proposals for constitutional change must be submitted to the people for ratification.
Part Three

A CALL TO ACTION

Bad management has been the most glaring feature of KANU governments for a generation. Waste, corruption, cronism, confusion, incompetence. These are the hallmarks of the Moi years, and these will be his legacy.

Policy papers gather dust on the shelves. Development targets are set with no idea of how to achieve them. Decrees are issued one day and withdrawn the next. Commissions spend years studying social and economic problems, but their reports are not even released let alone acted on. Projects stall, public funds disappear, the shilling continues to fall and every year the numbers of children out of school and young people out of work continue to rise.

With tedious frequency the President expresses his outrage and vows to prosecute corrupt officials, sack incompetent civil servants, restructure failing parastatals, privatise notorious cash cows. Occasionally some headline-grabbing action is taken, but nothing that really changes the system is ever done.

Understandably this has led many people to think that bad management is the cause of our political and economic crisis and that if we can only put good managers in place we can solve all these problems. But in reality bad management is only a symptom. The true cause of our problems lies deeper. The true cause is not managerial. It is structural. It involves not just how power is used but how it is distributed.

In a well-structured state power is evenly distributed among the different branches of government. This enables the different branches to “check and balance” one another. It forces each branch of government to act within limits and to be accountable to one another and to the people. But when Kenya’s leaders began playing around with our constitution in the 1960s to suit their own narrow interests, they broke down the system of checks and balances. Over the years political power became more and more concentrated in the presidency and the ruling party, and the true owners of the state — the people — lost control of their country. This is the true cause of our political and economic stagnation.

Overconcentration of power in a few hands always leads to mismanagement. It is human nature. If you are accountable to nobody, you will do as you please. Having the power to allocate enormous resources and spend huge amounts of money without accounting for them — without even having to show results — would tempt a saint. No wonder Moi and KANU have mismanaged public resources. No wonder they have squandered taxpayers’ money and allowed the nation’s schools and universities, hospitals, state corporations and economic infrastructure to collapse.

And no wonder they are doing everything they can to resist pressure to make the government accountable, strengthen parliament, limit the powers of the executive, end KANU’s control of state resources and make the judiciary and the civil service independent. No wonder they fear people-driven constitutional review.

The only way to fix the structural problems that cause mismanagement is to start with constitutional reform. The constitution is the law that determines the basic structure of the government. It is the problems in the current constitution that have enabled Moi and KANU to concentrate power in their hands, turn parliament into a rubber stamp, manipulate the courts, the police, the provincial administration and the civil service and trample on the rights of the people.

NCEC knows that action has to be taken to address the urgent problems facing the country — human rights violations, abuses of the courts, rampant insecurity, disintegrating infrastructure, a collapsing economy — before it is too late. This is why our plan for national renewal includes a programme of key political, social and economic reforms.

But comprehensive constitutional reform is needed to make any other reform programme successful. The problems in the current constitution are the root cause of all our political, social and economic woes. A new, democratic constitution is the only way to get to the bottom of these other problems. Until we have a government that is elected freely and fairly, limited in its powers and accountable to the people, any other reforms will fail to make any lasting difference.

In the last few months the President has cooked up some cosmetic reforms aimed at getting more money from the World Bank and IMF and cheating the Kenyan people that a new age is dawning. He claims that he wants to leave the nation with a legacy of peace and prosperity.

These moves are an insult to our intelligence. Leaving aside the obvious fact that Moi is the one responsible for our political and economic mess, it is clear that changing a few managers, even in key positions, cannot change the system. When the foundations are rotten, replacing the roof is not the solution.

Perhaps the World Bank and IMF will fall for Moi’s tricks. Their agenda has always had more to do with safeguarding the international economic
system than promoting genuine good governance, and they have propped up many corrupt dictators in the past.

But will the people of Kenya be fooled? NCEC thinks not. We give our fellow citizens more credit. The one who wears the shoe knows where it hurts. Kenyans know who is responsible for their suffering, and they can see the recent changes for what they are — more political sleight of hand from the “professor of politics.”

Kenyans can see that the cabinet reshuffle and the appointment of the Leakey team are only a game of musical chairs. They understand that new management can make little difference as long as the underlying structure of power remains the same.

Kenyans can also see that Moi’s recent moves are yet another attempt to sidetrack constitutional reform. He wants to distract attention away from the issue of constitutional reform and make people focus instead on trivial management changes. He wants to trick people into believing that these management changes will eliminate the need for more fundamental reforms. Already he has been saying that the constitution may not need a lot of changes after all.

The Kenyan people understand why Moi fears comprehensive constitutional reform. He knows that if the people are given the opportunity to make a new constitution they will put an end to unchecked presidential power. He knows that the people want to restore the power and independence of the other branches of government which are now under Moi’s thumb and make the government accountable to the citizens it is meant to serve.

After repealing Section 2A in 1991, President Moi admitted that the constitution needed to be overhauled, and he promised this would take place after the 1992 elections. He failed to keep this promise. On January 1, 1995, the President again promised comprehensive constitutional reforms and a people-driven review process. A few months later he went back on this promise. After relentless pressure from civil society he gave in again and promised reforms after the 1997 elections. When he signed the Constitution of Kenya Review Act 1997 he promised to support the people-driven process which the Act provided for. A few months later he broke his promise again and ordered Parliament to review the constitution. Recently he has even been saying that the present constitution may not need major changes at all.

Which is the President’s true position on constitutional reform? His trail of contradictions and broken promises over the past eight years prove one thing. He will never permit comprehensive people-driven constitu-

A Vision for National Renewal

tional review unless the people of Kenya make it impossible for him to get away with anything less.

Kenyans are patient, reasonable people. They love peace and have always preferred negotiation to confrontation. In the history of independent Kenya the people have only forced a confrontation with the government twice. The first time was in 1990 when they went to the streets to demand an end to one-party rule. The second time was in 1997 when they went to the streets to demand a new constitution. In both cases the key issues were the same — the people’s right to participate and the government’s refusal to budge despite years of pressure.

In both cases the government promised change but then betrayed its promise. In 1991 it restored multipartyism but kept the rest of the one-party constitution in place. Then it used its control of the state to rig the elections, hang on to power and clamp down on further change. In 1997 it cooked up the IPPG deal to buy time while promising comprehensive people-driven constitutional reform after the elections. Now two years down the road this promise too has been betrayed.

If we now let Parliament review the constitution, we will be handing back control of the reform process to Moi and KANU. Can anyone doubt the kind of constitution we would get?

To be sure, Parliament has plenty of experience making constitutional changes. It has passed 24 constitutional amendments since 1964. And the result? A constitution that totally fails to serve the interests of the people.

It is a constitution that is full of flaws and only serves the interests of those who made it. It is a politician’s not a people’s constitution, and it has enabled politicians to trample on our rights and enrich themselves at our expense for far too long. This parliament-driven constitution has enabled a tiny group of selfish leaders to hijack the state and use it for their own purposes.

This is why we now have a country where a few live in luxury while the majority struggle just to survive. This is why we have a country where millions of young people are out of work, where millions of children can’t go to school, where the poor die for lack of medicines, where farmers and pastoralists die of starvation, where crime, violence and corruption have become a daily reality. This is why we have a country that is teetering on the brink of collapse. And this is why a “dream team” of new managers will never be able to restore prosperity, good governance or democracy.

Kenya desperately needs a new constitution that serves the interests of the people. It needs a constitution that distributes power fairly, that pro-
tects human rights, that prevents any group or individual from dictating to the rest of us and that makes the government accountable to the people. It needs a constitution that is made by the people and has their support.

Successive KANU parliaments have done nothing but wreck our constitution.

Another parliamentary review of the constitution can only result in more of the same. A nation’s constitution is a contract between citizens and their elected leaders in which the citizens are the masters and the leaders are their servants. This is the only way to guarantee legitimate, accountable government. The citizens must be the ones who draw up this contract.

It is clear that the time has come for the people of Kenya to once more demand their right to control their own destiny. KANU has mistaken the people’s desire for a negotiated agreement as foolishness or fear. It has taken advantage of our patience and our desire for peace to delay real change and bring this country to the brink of disaster.

But the state of the nation now demands that we wait no longer. KANU’s stubbornness and incompetence have brought Kenya to an explosive point. There is grave danger of the country collapsing into chaos unless we begin to address our governance crisis at once. The signs are clear — the recent wave of school violence, the clashes in Nyeri coffee cooperatives, the anger and bitterness of farmers in the sugarcane, tea, dairy and rice sectors, the growing restlessness of the manufacturing and business communities, the desperation of workers, the rampant banditry and cattle rustling in the northern half of the country, the anger of matatu owners and the rising level of crime and violence in our society in general.

If we allow the constitutional reform process to take place in Parliament, nothing that threatens the current power structure can possibly pass. At best only minimal, cosmetic changes will be made. At worst Moi and KANU could use the process to push through amendments that weaken democracy even further. For example what is to stop KANU from removing the two-term constitutional limit on the presidency? Already some party hardliners are declaring that Moi must stay on after 2002. The President has said himself that no one is qualified to replace him. True, he has promised to step down, but can we trust him after so many other broken promises?

The people-driven programme of national renewal proposed by NCEC is the only realistic option. As Part Two of this booklet shows in detail, this programme addresses all the main issues in a coherent and balanced way. It begins from the core issue — the need for constitutional reform to build a new foundation for democracy — but also incorporates the need for economic and social recovery on the one hand and the opening up of democratic space on the other.

Finally the NCEC programme proposes a practical, sensible structure — including a process of transitional justice — to ensure that the recovery agenda can be implemented safely, fairly and effectively with the participation of all sectors of society and the support of the people. Through the creation of a multi-sectoral forum to set the agenda and a transitional caretaker government to implement it, the programme ensures that national renewal will take place in an atmosphere of dialogue and cooperation.

The multi-sectoral forum will be both legitimate and strong. It will be a true citizens’ decision-making forum, with representatives from all the stakeholders and from every part of the country. The people as a whole, not politicians or any other single group, will be the movers of the constitutional reform process and the owners of the new, democratic constitution.

The caretaker government will also be broadly representative. With representatives from all the key national sectors — secular and religious civil society, the security and armed forces, the business community, the women’s movement, the youth movement, workers and farmers — it will be the most representative and legitimate executive authority Kenya has ever had. And as a non-partisan body it will be able to facilitate the making of a new constitution by the people of Kenya and steer and safeguard the programme of national recovery.

The NCEC programme is serious, realistic and fair. It is a programme that everyone who puts the interests of Kenya first can support. Only those who are interested in their own political survival at the expense of the nation can oppose it. NCEC is launching this programme with the expectation that it will receive support from all sectors of society and from the mass of the people. We are sure that the citizens of Kenya will see these proposals for what they are — a non-partisan, patriotic and serious programme for national renewal, not a political gimmick. We are also sure that our fellow citizens will see that the time to act on these proposals is now — before irreparable damage is done to the country by KANU’s political gimmicks.

We do not expect President Moi and KANU hardliners to support these proposals. That would be expecting the leopard to change its spots. But we believe that if the people support us the government will have to lis-
ten. The mass action campaign of 1997 showed Kenyans what can be accomplished when the citizens insist on their right to control their own political destiny. Through the IPPG deal it also taught us not to be cheated again.

This time we know better. And this time the stakes are even higher. The crisis facing our country has deepened since 1997. The writing is on the wall, and the people of Kenya see it very clearly. Kenyans must not compromise on the process of national recovery. All of us together must define Kenya and what it means to be a Kenyan.

Kenya cannot be allowed to disintegrate when it has the potential to provide democracy and prosperity for all. As we enter the new millennium, the people of Kenya — led by all the reform forces working together — must ensure that we embrace democracy and avoid the path of violence. Together we can do this, but only together.

NCEC therefore calls on all Kenyans of good will — and particularly our colleagues in civil society, fellow democrats in the political class (including those in KANU who support democratic change) and our friends in the business community, the professions, the African family and the international community — to support the programme of national renewal outlined in this booklet and demand that the government agree to the formation of a multi-sectoral forum to begin the process of national renewal at once.

NCEC believes in a peaceful, legal and constitutional route to the democratic future of this country. If our leaders insist on following their own self-interested path and ignoring the fundamental rights of citizens, NCEC will launch its own process of people-driven constitutional review. We will invite the politicians to participate, but we will move forward with or without them. Both natural justice and constitutional legality are on our side. We will not be sidetracked in the quest for democracy.

As Kenyans restart the process of collective citizen action for democratic change and constitutional renewal, NCEC calls for renewed vigilance on the part of the people. Corrupt vested interests have a great deal to lose from true democracy. They will try to use their wealth and power to undermine and divide us. But our faith is in the people of Kenya. We know that when the people speak with one voice, when they show they will not be frightened or discouraged and above all when they demonstrate their commitment to peaceful constructive change, they will overcome.

**Afterword**

**THE CHALLENGE OF FREEDOM**

The NCEC realises that it has taken on a mammoth task. Reaching the goals outlined in this book will require navigating through some very deep political waters. This is a challenge we have been preparing to undertake for some time.

At the beginning of 1999 NCEC decided that it was ready to do whatever was necessary, including being involved in “high politics,” to unite all the forces of democracy in the struggle to reform the constitution and create a new democratic order in Kenya. As Martin Luther King said as he was preparing to embark on his campaign to renew American democracy: “Our lives begin to end the day we become silent about things that matter.” As Dr King saw, we have to take a stand on the things that truly matter in human life — freedom, self-respect and justice — regardless of the difficulties and dangers in our path. Otherwise our lives lose their meaning.

In the struggle for democracy a free mind is the key to victory. As Mahatma Gandhi told the people of India during the struggle for independence: “Every one of you should from this moment consider himself or herself a free man or woman and even act as if you were free . . . . What you think, you become.”

We must start with free minds and from there launch the process of freeing our society, our economy and our political system.

And we must start now! Freedom is in the air, and the time has come for action. The people have yearned for democracy long enough. If we come together now, nobody can stop us.

The challenge of democracy can be summed up in ten simple principles:

1. **The citizen is the ruler.**
   - The citizen is the only true basis of the state. The citizen is the ruler. Politicians and officers of the state are our servants not our masters.

2. **The citizen has inalienable rights and freedoms.**
   - Our human rights and freedoms are God-given. They can neither be granted nor taken away by the state.
3. The citizen also has responsibilities, duties and obligations.
Citizens owe the state, their community and their fellow citizens the
duty to act as responsible, respectful and disciplined members of a democratic society.

4. The rule of law is the key to democracy.
Democracy cannot be sustained unless all citizens are subject to the
same laws. Everyone has to be equal before the law regardless of race, ethnicity, wealth, power, connections or any other quality.

5. Democracy is a way of life.
Democracy is not just a matter of the constitution and the other laws.
It has to be actualised at all levels of society, beginning from the family and other basic human relationships. We must have democracy at home, in the workplace, in civil society, in our communities and in our streets and other public spaces as well as in parliament, the courts and the presidency. Above all we must have democracy in our hearts.

6. Participation is the centre of civic life.
Citizens have a right — and a duty — to participate in governance and all other aspects of public life. Participation has to be real and effective, not token or symbolic. Every citizen has to be able to make a difference.

7. Power has to be shared.
Power is dangerous when it is in too few hands. Our democratic institutions have to be designed so that power is balanced and distributed among many hands. There have to be safeguards to ensure that no individual or group can overstep their power.

8. The right to basic needs and other economic, social and cultural rights must be guaranteed.
All citizens are entitled to a fair share of their nation’s resources. Basic human needs such as work, food, clothing, shelter and health are every citizen’s right.

Democracy is the rule of the majority, but a democratic society cannot be sustained without special protections for minorities, disadvantaged groups and the most vulnerable members of society. Otherwise we have a dictatorship of the majority, not democracy.

10. We are citizens of the world.
The modern man and woman is an individual, family member, a neighbour, a member of an ethnic community, a member of occupational, political, civil and religious communities, a citizen of the state and also a citizen of the world. At all these levels internationally-agreed standards apply. We have rights and obligations in relation to the international community, and our national democratic institutions must enable us to realise these rights and obligations.

These are the principles we must focus on and actualize in our lives and our society. Let us begin now to rise to this challenge — and to this enormous opportunity to rebuild our society on truly democratic principles. We invite all Kenyans of goodwill to join us now in this noble task. With faith in the justice of our cause and in the power of citizens’ solidarity, we are bound to succeed.