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ictj briefing

BREATHING LIFE INTO THE NEW CONSTITUTION

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A new constitutional approach to law and policy in Kenya: lessons from South Africa[1]

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I. Introduction

The phrase "dawn of a new era" is often bandied about when describing new developments in a country. In the case of Kenya, with the promulgation of its new Constitution, it can be truly said that the dawn of a new era has arrived or at least an era that has the potential to be so different from Kenya's past. With the promulgation of a new supreme law, Kenyans for the first time in their lives are given an opportunity to embrace a new future. Kenya's past has been characterized by repressive rule, undemocratic practices, rampant inequality and corruption, injustice, and impunity.[2] The people of Kenya may now build a future that rejects such values and practices.

This historical compact opens the door for Kenyans to give meaning to new national values boldly proclaimed in section 10 of the new Constitution: human dignity, equality, social justice, inclusiveness, the rule of law, democracy and the participation of people, good governance, integrity, transparency, and accountability.[3] These are not mere throwaway lines. Every other provision in the Constitution must be interpreted through the prism of these values and principles. They provide the signposts to guide Kenya through a future that is filled with many obstacles and challenges. A Kenya that is united around these constitutional principles has a promising future.

If respected, the Constitution, and the measures taken to implement it, will form an historic bridge between an iniquitous, oppressive past and a future based on social justice and economic development. It will lay the foundations for a democratic and open society in which every person is equally protected by the law. The new Constitution ought to free the potential of each and every Kenyan.

The new Constitution should encourage peaceful conflict resolution within Kenyan society.[4] Individuals and marginalized groups will have the real possibility of challenging the abuse

1 A version of this paper was first delivered at a lecture ICTJ organized shortly before the promulgation of the Constitution.
2 Howard Varney, "Bashir Invite Broke New Constitution," *The (Nairobi) Star,* Sept. 1, 2010.
3 Constitution of Kenya, sect. 10(2).
4 David Monyae, "South Africa in Africa, Promoting Constitutionalism in Southern Africa, 1994-2004," in *Constitutionalism and Democratic Transitions: Lessons from South Africa*, ed. Victoria Federico and Carlo Fusaro (Florence, Italy: Firenze University, 2006), 6.

of authority by the state and the violation of rights committed by other powerful actors. It should provide space for citizens to organize around common interests and provide an effective "mechanism through which leaders hear from the people."[5]

This paper will briefly consider what is involved in building a constitutional state. It will provide a comparison between the Kenyan and South African constitutions before outlining how constitutional litigation has unfolded in South Africa. Finally it will identify the challenges and key strategies facing those in Kenya who wish to use the Constitution to effect social change.

II. Building of Constitutionalism

Kenya has emerged from its constitution-making phase. It is now time to build constitutionalism.[6] This involves giving meaning to the terms and values of the foundational law. Kenyans must know that they may turn to it in times of need. Its provisions must become capable of being invoked. When people read meaning into its words, when they recognize that its enshrined rights apply to them, and when they call upon its terms to protect them, then the document becomes a living force. Once this happens there will be no stronger power in society. However, until then it would not be trite to say that the Constitution is in mortal danger of being stillborn. Unless it is nurtured through the crucial post-enactment phase by courageous and far-sighted citizens, activists, lawyers, judges, as well as members of the legislature and executive, the Constitution will remain under threat—and may be prevented from reaching its full potential. Its flame may even be extinguished, and with it the hopes of millions of Kenyans. This is a national project that cannot afford to fail.

A) Post-Conflict Constitutions

Constitutions that emerge following periods of conflict assume critical importance because they are not only meant to regulate the exercise of power but they are also required to resolve conflict and maintain the peace.[7] Much conflict is over the control and allocation of scarce resources, and the exercise of arbitrary and oppressive power. Typically in pre-democratic constitutional orders, those wielding power appropriate such resources for themselves. They then use the machinery of state to crush dissent.

In post-conflict orders or in periods following abusive rule it is ultimately the constitution that must resolve these issues going forward. It does so by becoming the source of all public power. In a truly democratic constitutional order, all public power is sourced from somewhere within the sections and chapters of the constitution. Authority is no longer derived through the machinations of dominant forces in society. If authority for public actions and decisions cannot be sourced from within the constitution, that authority is unlawful. It is invalid and has no force and effect in law. It falls to be struck down by the courts.

Democratic constitutions generally impose limits on the exercise of power. They also provide the principles that apply to accessing limited public assets. Accountability and transparency in respect of the exercise of public power and the use of state funds is required. Institutions are provided through which political expression is channeled, as well as through which disputes are resolved according to recognized fair procedures. When all these rules are agreed upon and when there is an understanding that they will apply to all without exception, the conditions for conflict are largely removed.

5 Yash Ghai and Guido Galli, *Constitution Building Processes and Democratization* (Stockholm: International Institute for Democracy and Electoral Assistance (IDEA), 2006) 8; Karen Syma Czapanskiy and Rashida Manjoo, "The Right of Public Participation in the Law-making Process and the role of Legislature in the Promotion of this Right," *Duke Journal of Comparative & International Law* 19, no. 1 (2008): 1.

6 In this section the writer has relied heavily on Ghai and Galli, *Constitution Building Processes and Democratization*.

7 Ibid., 7.

However, an additional challenge is placed upon post-conflict or -repressive regime constitutions, namely that of nation building, promotion of reconciliation, and national unity. It does this through the expression of national values and principles that reflect the common aspirations of people as inspired by the best of local tradition and history. Since humanity is invariably denied during times of conflict, constitutions seek to promote the creation of a new human rights culture. In such a culture there is general recognition of the basic rights to which all human beings are entitled. A constitution, which provides for enforceable rights, will commence the process of restoring dignity to individuals, communities, and the country. In so doing it will also establish a new concept of equitable citizenship; a citizenship that demands tolerance and mutual respect among Kenyans.

B) Recognizing the Pitfalls

It is necessary to identify the pitfalls facing those who wish to build constitutionalism in a post-conflict society or a society emerging from abusive rule. Yash Ghai and Guido Galli, in a groundbreaking paper on constitution building, note that a constitutional text "whose birth is in some respects inauspicious, even contested, can in time stamp its imprint on society and weave its way into public favour, while a constitution proclaimed with great enthusiasm can run into difficulties, be ignored or even be expressly discarded."[8] The birth of Kenya's Constitution was hardly inauspicious, but it was contested and has been proclaimed with much acclaim. It not only has to live up to its auspicious birth but also has to persuade those who contested it to become part of the constitutional program.

Ghai and Galli note that the post-enactment period is the most critical of all for the consolidation and stabilization of the constitution.

> Those who may have lost in the earlier stages will resist implementation and even those who may have favoured change may now find themselves in a position where their new interests are better served by the old dispensation. Sometimes through deliberate or benign inactivity, the progressive and democratic provisions of the new constitution are disregarded. The pressures that may have sustained the constitution-making process may disappear or a sense of complacency may overtake local activists after 'victory' in the struggle for reform.[9]

They refer to "legal 'sediment' that may remain and which may be antagonistic to the new values":

> Previous habits and styles of dominance persist, especially among bureaucracies. Old vested interests, armed with money and other resources, may capture new institutions and neutralize the progressive agenda of the constitution.[10]

These scholars propose ways and means to protect the constitution in the face of such threats. They include: "engaging the people in political and constitutional affairs" through civic education; constant public participation in the legislative process, in monitoring of government, in easy access to courts and other complaints authorities for protection of constitutional values; and "addressing the legacy of inherited law and entrenched values or practices of the old regime."[11]

They point out that the legitimacy of a constitution "comes in considerable part from the perception of sectors and groups in society as to how fairly it has dealt with issues of particular concern to them."[12] The Kenyan Constitution does contain laudable values and goals. If applied meaningfully, it should become the framework within which the most troubling

8 Ibid., 9.
9 Ibid., 11.
10 Ibid.
11 Ibid., 12.
12 Ibid., 14.

moral and political issues of the day may be addressed.[13] It should be noted, however, that a new constitution does not automatically change pre-existing capacities for reform and change. By way of example if Kenya lacked capacity for independent, impartial investigations of crimes prior to the new Constitution, such shortcomings will remain in the new era. These shortcomings have to be addressed with much vigor and determination.

Ghai and Galli stress that "unless people take responsibility for the respect for, and the development of the constitution, the democratic process will remain precarious. People's participation is important to elaborate the agenda of constitutional (and social) reform."[14]

They do caution, however, that there are examples of highly participatory processes that produced constitutions that were never fully implemented or were diluted following enactment. They point to several examples of this trend including Thailand's 1997 constitution, which was the product of "the most participatory process in Asia" but has had "little impact on the political system" and many of its provisions are ignored. Ghai and Galli suggest that the "critical factor may not be the legitimacy of the constitution but qualities of enquiry, scepticism, knowledge, confidence and organization that participation produces."[15]

III. Kenya and South Africa

Writing in 1991, Donald L. Horowitz observed, "If democracy endures in South Africa, more fortunately situated countries will have ground for greater optimism."[16] My view is that Kenya is one such country.

There is much to be learned from the difficulties experienced in South Africa in using the Constitution but also from some of the successes achieved. There are similarities between the constitutions of Kenya and South Africa. Like Kenya, the Constitution in South Africa was adopted after many years of turbulence. As with Kenya, the process behind the South African Constitution was largely consultative and participatory.

However a notable difference between the constitution-making contexts was the fact that in South Africa a national consensus of sorts had emerged prior to finalizing the Constitution.[17] This took place through the negotiating process, the institution of reconciliation and accountability measures such as the Truth and Reconciliation Commission (TRC), and agreeing to a set of constitutional principles as well as the laborious constitutional assembly process that ultimately produced a draft acceptable to the main factions. All these developments helped produce a national consensus for political and social change.[18] While Kenya's constitution-making process was consultative and democratic—indeed more democratic than the South African experience since it involved a referendum—it is questionable as to whether a national consensus has emerged as yet.

Another notable difference is that in South Africa the Constitution was preceded by "major changes in the power structure."[19] The first democratic elections of 1994 produced a decisive result and a shift to rule by the party with majority support. In Kenya a status quo of sorts still remains, and an uneasy power sharing arrangement has ushered in the new Constitution.

Kenya thus faces the formidable challenges of still having to push for a national consensus to drive political and social change while at the same time overseeing potential significant

13 Ibid.
14 Ibid.
15 Ibid., 15.
16 Donald L. Horowitz, *A Democratic South Africa?: Constitutional Engineering in a Divided Society* (Berkeley: University of California, Berkeley Press, 1991), xiii.
17 Ghai and Galli, *Constitution Building, Processes and Democratization*, 13.
18 Ibid., 13.
19 Ibid., 10.

changes in the power structure. The new Constitution will give Kenya the best possible chance of successfully meeting these challenges.

In South Africa, the glue that held the transitional program together was the promise of a new constitution based upon agreed principles that would provide enforceable rights for all, inclusive of minorities. Accountability would be required from those wielding public power. Independent institutions would be established with the authority to hold public power to account. While South Africa still faces severe challenges and certain hard-won freedoms remain under serious threat, after some 15 years of constitutional democracy, a culture of rights has taken root in the country.

The structures of the two constitutions are quite similar. The foundational sections of both deal with questions of sovereignty, supremacy of the constitution, national values, and citizenship. The national values underpinning each are essentially the same. However, the Kenyan Constitution stipulates up front that state organs shall ensure reasonable access to services in all parts of the republic.[20]

Essentially the same rights and freedoms are enumerated and upheld in the bills of rights, often in similar terms. In some instances the protection provided in the Kenyan Constitution, such as freedom of the media, is considerably stronger than that provided in the South African Constitution. The functional clauses of the two bills that deal with application, enforcement, interpretation, and limitation of rights appear to work largely in the same way.

There are several significant innovations in the Kenyan bill. It specifically sets out how a court is to apply economic rights when the state claims that it does not have the resources.[21] Article 21 requires the state to take measures to achieve the "progressive realization" of economic rights. The state is enjoined to address the needs of vulnerable groups in society, such as children, youth, the disabled, minorities, marginalized groups, and the elderly.[22] Important innovations are included to minimize the formalities involved in bringing proceedings before the courts to enforce constitutional rights. Litigants may even initiate proceedings on the basis of "informal documentation," and no fee may be charged for commencing such proceedings.[23] The biggest obstacles to the enforcement of rights in South Africa have been the formidable procedural hurdles that litigants have to navigate and the huge expense involved in bringing cases before the courts.

Both constitutions have chapters dealing with the different functions of organs of state such as the executive, legislature, judiciary, security services, public service, and public finance. The chapters are preceded by important principles that the different organs must comply with. Due to Kenya's particular history, the framers saw fit to include chapters that provide specific attention to the questions of land and environment, leadership and integrity, and representation of the people.[24]

Both constitutions provide for independent institutions to protect and strengthen constitutional democracy.[25]

IV. The South African Constitutional Trajectory

The beginning of the constitutional era was accompanied by extensive outreach and public education campaigns, both by governmental organs and civil society. The outreach and education campaigns were vital as they provided all of society the opportunity to access social

20 Constitution of Kenya, sect. 6(3).
21 Ibid., sects. 43 and 20(5).
22 Ibid., sect. 21(3).
23 Ibid., sect. 22(3).
24 Ibid., sects. 5-7.
25 Kenya National Commission on Human Rights Act 9 of 2002, sect. 16(1)(i).

justice.[26] The first print run of the pocket book Constitution (in 11 languages) was widely distributed and was available free on demand.

A) Rights Tackled Up Front

Both the first case heard and the first judgment rendered concerned criminal matters. In fact, four of the six cases considered to be landmarks in 1995 were criminal. All of the cases resulted in the strengthening of the rights of those facing criminal justice. The death penalty was abolished, corporal punishment of juveniles was found to be unconstitutional, and the presumption that a confession was freely and voluntarily made was struck down.

In terms of civil rights, the Constitutional Court of South Africa declared that prisoners had the right to vote, and it removed legal restrictions against same-sex life partners.

In another matter, the Constitutional Court upheld the amnesty powers of South Africa's TRC.[27]

B) Muted Jurisprudence

However, in this period no case dealt with issues that could affect real social change. Human rights lawyers Gilbert Marcus and Steven Budlender made important observations in an instructive review of constitutional-era public interest litigation in South Africa.[28] They noted that few lawyers knew how to exploit the provisions of the Constitution successfully. Law schools had just commenced teaching constitutional law. Jurisprudence on issues such as socioeconomic rights did not exist in South Africa. It was not known which cases should be taken to the Constitutional Court and in what manner they should be brought.[29]

Moreover many activists and lawyers who had been previously active in public interest litigation left to work for the government. Marcus and Budlender observed, "The exodus of public interest litigators and social activists necessitated the development of a new generation to replace them."[30]

They noted the belief held by many that the new government would "do the right thing" and needed to be given the space to do so—rather than being antagonized by public interest litigation.[31] They observed that this resulted in much of the early constitutional jurisprudence dealing with the effects of the Constitution on criminal law rather than on socioeconomic rights and social change. The Constitutional Court itself displayed a great deal of caution when dealing with such matters. In the first case on socioeconomic rights,[32] the Constitutional Court held that despite the dire consequences facing a patient unable to obtain dialysis treatment, it would not order the treatment as the government's policy did not contravene the right to health care.[33]

C) Post 2000

Since the turn of the 21st century, public interest litigation has responded to the socioeconomic needs of vulnerable communities.[34]

Rights and issues tackled included the following: housing; employment discrimination against an HIV-positive person; the constitutionality of extraditing an accused person to a country that imposes the death penalty; the duty of courts to develop the common law, such as the duty of the police to prevent sexual violence against women; right to health care and access to HIV/AIDS treatment; freedom of religion; freedom of expression; independence

26 Gilbert Marcus and Steven Budlender, *A Strategic Evaluation of Public Interest Litigation in South Africa* (The Atlantic Philanthropies, 2008), 13
27 The Court held that the amnesty provision violated several fundamental rights but was saved because the epilogue to the Interim Constitution specifically authorized the amnesty. There is no similar provision in the Kenyan Constitution.
28 Marcus and Budlender, *A Strategic Evaluation of Public Interest Litigation in South Africa*, 9.
29 Ibid., 9-11.
30 Ibid.
31 Ibid., 11.
32 Soobramoney v. Minister of Health, KwaZulu-Natal 1998 (1) SA 765 (CC).
33 Marcus and Budlender, *A Strategic Evaluation of Public Interest Litigation in South Africa*, 11.
34 Ibid., 13.

of the magistrates' courts; gender equality and the right of African women to inherit under the African customary law; right of access to social security by permanent residents; rights of people facing eviction; access to water and electricity; and the question of legal costs in public interest litigation.

Marcus and Budlender argue that while there has been a focus on certain socioeconomic rights—such as housing, health care, and land—there has not been sufficient monitoring and raising awareness of the issues, nor enough lobbying and advocacy initiatives related to them.[35]

The limited attention on socioeconomic rights was often due to the inability of the victims of such violations to access courts and too few lawyers who could assist them in fighting for their rights.[36] At the time there were insufficient nongovernmental organizations (NGOs) actively addressing the issue of socioeconomic rights. According to feedback received by Marcus and Budlender, the answer lies not in establishing more one-issue organizations but rather in promote networking between NGOs that work on the ground and public interest litigation organizations.[37]

D) Right to Housing

The first case that involved a serious exploration of socioeconomic rights was a challenge to government policy on the provision of low-cost housing in the Grootboom matter.[38] Although the Constitutional Court found that the community's right to housing had been violated, it did not order the government to provide adequate housing. However, it did hand down an order declaring that the government's policy constituted an infringement of the right to housing. The Court then ordered the state "to devise and implement, within its available resources, a comprehensive and co-ordinated programme progressively to realise the right of access to adequate housing."[39] Such a program had to include reasonable interim measures to provide relief for people "who have no access to land, no roof over their heads, and who were living in intolerable conditions or crisis situations."[40]

Marcus and Budlender observed that the decision impacted significantly the government's attitude toward socioeconomic rights and socioeconomic rights cases noting that it "looms large as an indication that where the government fails to act reasonably, it will be taken to court and defeated."[41]

E) Right to Health

In *Minister of Health v. Treatment Action Campaign (TAC)*,[42] the Constitutional Court unanimously decided that the government's policy on the provision of health care to those with HIV/AIDS had not met its constitutional obligations to provide people with access to such services in a manner that was reasonable and that took account of pressing social needs.[43] The court confirmed the judiciary's right to issue instructions to the government to amend policies found to be unconstitutional.[44]

The judgment also insisted on the Court's right to "ensure that effective relief is granted" and to exercise "supervisory jurisdiction."[45]

35 Ibid., 12.
36 Ibid., 13.
37 Ibid., 15.
38 Government of the Republic of South Africa and Others v. Grootboom and Others, 2001 (1) SA 46 (CC).
39 Ibid., para. 2(a).
40 Ibid., para. 2(b).
41 Ibid., 65.
42 2002 5 SA 721 (CC), hereinafter the TAC case.
43 Mark Heywood, "Preventing Mother-to-Child HIV Transmission in South Africa: Background, Strategies and Outcomes of the Treatment Action Campaign Case against the Minister of Health," South African Journal of Human Rights 19 (2003): 278-315.
44 Marcus and Budlender, *A Strategic Evaluation of Public Interest Litigation in South Africa*, 88.
45 TAC case, paras. 98-101, 104, 106, and 113 at 755B/C-756F/G, 757E, 758A/B–C, and 759F/G-760B.

The government proved to be less than diligent in implementing the Court's order. The TAC had to take concerted action to ensure provinces complied with the Court order. It held several meetings with high-ranking officials and decided to launch rolling contempt of court proceedings against individual provinces. This decision, which was communicated to the authorities, prompted action on the part of the government.[46]

V. Lessons

Marcus and Budlender concluded that the TAC case demonstrates how to "combine social mobilisation on the one hand, with litigation on the other . . . It is without doubt a shining example as to how litigation—when run properly and as part of a series of broader strategies—can achieve social change."[47]

They noted that "awareness of rights is an 'absolute precondition if communities are to enforce their rights in a manner that leads to social change.'"[48] The provision of advice and assistance through a system of paralegals and advice offices is critical to helping people enforce their rights. Where cases are large and complex, lawyers must be knowledgeable with the relevant domestic, foreign, and international law.[49]

In pursuing their rights, affected communities should become "socially mobilized, structurally organized and actively involved," which includes using political pressure wherever possible.[50] Finally, Marcus and Budlender noted that perhaps the most important of all actions was for communities to follow up the outcome of cases.[51]

VI. Challenges

Marcus and Budlender identified several major challenges facing the South African public interest litigation environment: lack of funding; lack of experienced, skilled staff; and the attitude of the government.[52] Following the introduction of the new Constitution, many foreign funders assumed that human rights abuses had ended and withdrew their support from several human rights organizations, including public interest litigation groups.[53]

The organized bar provided little support for public interest litigation, and only a small number of practitioners made themselves available for pro bono work.[54] It was suggested that public interest litigators be paid, even if only at public interest rates, in order to avoid the creation of a dominant group of lawyers taking on such matters only because they could afford to do so, and then only taking on the highest profile cases.[55] Constitutional litigation, particularly socioeconomic rights cases are "complex and require research, time and strategy and it is essential that funders understand this."[56]

As in South Africa, the human rights community in Kenya is likely to face an intransigent government that may ignore court orders and settle matters at the last moment to minimize the impact of test cases and to avoid building a coherent jurisprudence.[57]

VII. Key Strategies for Social Change

The South African experience as elucidated by Marcus and Budlender has demonstrated that if public interest litigation is to advance social change it has to be accompanied by three other

46 Marcus and Budlender, *A Strategic Evaluation of Public Interest Litigation in South Africa*, 89.
47 Ibid., 91.
48 Ibid., 67
49 Ibid.
50 Ibid.
51 Ibid.
52 Ibid., 15.
53 Ibid., 16.
54 Ibid., 22.
55 Ibid., 24.
56 Ibid., 22.
57 Ibid., 24.

strategies: public information campaigns to achieve awareness of rights; provision of advice and assistance; and social mobilization and advocacy to ensure that communities are actively involved.[58]

The first step in building a culture of rights, in which people know their rights and claim them, is to educate people about their rights and to "assist them when their rights are violated."[59] Public information campaigns help change attitudes and empower individuals.[60] This is not done only by taking cases to the courts.[61] Advice offices and clinics can help people claim their rights by giving advice, "directing them to appropriate institutions and assisting them with the formulation of their claims."[62]

Second, rights are most effectively asserted through social movements.[63] Marcus and Budlender stress that litigation should never be seen as an alternative for social mobilization on rights issues: "Rights have to be asserted both outside and inside the courts . . . Even when there is litigation which results in a major breakthrough, there has to be organisation to ensure that it is properly implemented."[64]

"properly used, public interest litigation enables marginalised groups to overcome hardship and injustice that may be beyond their reach if they were limited only to the three non-litigious strategies."

Marcus and Steven Budlender

Third, they conclude that public interest litigation achieves maximum effect when it complements and assists other advocacy strategies.[65] Commenting on the TAC case, veteran human rights activist and lawyer Geoff Budlender, stated:

> The TAC built a strong alliance with key pillars of civil society—trade unions, churches and media. It built a genuine social movement and showed how the Constitution, which represents the best ideals and values of our country, can be a powerful tool for holding government to those ideals and values. In some ways, the final judgment of the Constitutional Court was simply the conclusion of a battle that the TAC had already won outside the courts, but with the skillful use of the courts as part of a broader struggle.[66]

Marcus and Steven Budlender note that "properly used, public interest litigation enables marginalised groups to overcome hardship and injustice that may be beyond their reach if they were limited only to the three non-litigious strategies."[67] As experienced constitutional litigators, they conclude "The most effective litigation strategies are those that take a long view and which may involve the bringing of a series of inter-connected cases."[68] Effective public interest litigation is also generally preceded by coherent serious attempts to resolve the issue without resorting to the courts, which should only be used as a last resort. Effective litigation also rests on the most detailed factual comparative legal research carried out long before the case is initiated.

VIII. Conclusion

The current generation of Kenyans is given an opportunity to make a real difference, not only to their own lives, but also, as the preamble to the Kenyan Constitution exhorts, to all future generations. The new Constitution is the start. It is one of the most progressive constitutions in the world today. However important and groundbreaking as it is, like any other law, it is a document filed in the government gazette. It will only be given meaning when all Kenyans respect and internalize its values and when those wielding power accept that nobody is above the Constitution.[69]

58 Ibid., 94.
59 Ibid., 96.
60 Ibid.
61 Ibid., 99.
62 Ibid.
63 Ibid., 104.
64 Ibid., 108.
65 Ibid., 106.
66 Ibid., 107.
67 Ibid., 114.
68 Ibid., 128.
69 Howard Varney, "Bashir Invite Broke New Constitution."

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The building of a new Kenya requires the taking of a long-term view. It requires arduous work. Not all the fruits of such work will be enjoyed by this generation. But this generation, which has experienced the worst of times, will bequeath something better for future generations. There can be no better legacy than the construction of the foundations of a society that provides for lasting peace and prosperity.

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