

# PARTNERSHIP FOR PEACE

A monthly supplement funded by European Union and Konrad Adenauer Stiftung

## New dawn for Kenyan heroes

ON October 20, 2010, Kenyans marked the first Mashujaa (Heroes) Day. The new constitution scrapped two public holidays, Moi Day and Kenyatta Day, and replaced them with Mashujaa Day. I have in an earlier issue discussed how important heroes are for a person's cultural identity and consequently for a nation's identity.

The two old public holidays gave attention to only two national heroes which not all Kenyans could identify themselves with. This new national holiday embraces all heroes and by so doing unites all Kenyans. I would assume that this is the rationale behind the new

### MANAGER'S COLUMN



By  
**HANNA  
CARLSSON**

Mashujaa Day.

The Partnership for Peace project has passed mid-term and in the month of November an external evaluator will visit us for a monitoring and evaluation exercise. The exercise is very important to establish if the implemented activities have contributed to the results of the project.

The evaluator will also give recommendations to the project team on how to improve processes to maximize the impact of the

project. Some of you will meet the evaluator and I highly appreciate your cooperation.

In mid-October the first simulation training took place in Cheptebobo, Rift Valley. The representatives of the CSO was strengthening in peace-building, networking and a role play, with the active participation of the participants, simulated how the CSO-network will work together in cases of tensions.

The second simulation training will take place in Bondo, Nyanza, in the end of October and the third in Western region in mid-November.

Electoral Institute for the Sustainability of Democracy in Africa (EISA, former Electoral Institute of Southern Africa) has launched

a conflict management project focusing on electoral and political violence. 10 conflict management panels will be established in the country where four are located in Rift Valley, Nyanza and Western regions.

The panels will collect indicators to identify sources of political violence and further try to mitigate an open conflict. The Partnership for Peace project will work closely with EISA. We both believe in partnership and will as much as possible explore how we can complement our efforts in the regions.

As usual the coordination office in Kisumu is interested to hear your views about the articles in the magazine. You are also welcome to contribute and inform the general public how you work towards peaceful communities in Kenya.

*The writer is the International Project Manager for partnership for peace project. In case of any comments or suggestions write to: [partnershipforpeace@gmail.com](mailto:partnershipforpeace@gmail.com)*

## Victims of Mt Elgon clashes still missing

BY **AGRREY BUCHUNJU**

OVER 150 people are still missing two years on after a military operation to flush out a militia gang in Mt Elgon District.

The victims were reportedly abducted by the Saboot Land Defence Force (SLDF) or arrested by the military during their famous 'Okoa Maisha operation'.

Their disappearance has remained a mystery over the last two years despite frantic efforts by desolate families to establish their whereabouts.

The Western Kenya Human Rights Watch has therefore asked the government to trace and establish the whereabouts of the missing persons and inform their families accordingly.

Watch's director Job Bwonya recalls that during the 2006-2008 violence in Mt. Elgon District,

more than 80 people were abducted by the SLDF and 76 others arrested by the military, but unfortunately their fate remains unknown to date.

"Abduction and detention of people by state agents, followed by concealment of their fate is against the international principle of natural justice. It brings to question the credibility and integrity of the country's security personnel," says Bwonya.

He wants the Government to initiate a judicial commission to investigate the disappearances, saying the state has an obligation to establish the whereabouts of the victims.

Bwonya discloses that complaints to the police have not borne fruit, adding that even families that had applied for production orders have to date not seen their loved ones in the corridors of justice.

He urges the security minister George Saitoti to take action with a view to discovering what hap-

pened to the missing persons or their whereabouts.

This, he says, will not only bring hope to the victims' families but also safeguard the image of the government locally and internationally.

Bwonya argues that continued concealment of the whereabouts of the victims perpetuates the culture of impunity and challenged the minister to act speedily to resolve the grave matter.

Bwonya appeals to the United Nations working group on forced or involuntary disappearances to pressurize the Government of Kenya to shed more light on the mysterious disappearances in Mt. Elgon.

"The Government must be forced to give full information on the fate of people abducted by the SLDF and those arrested by the military that has been the cause of conflict in the country," he adds.

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## Citizens must keep pressure on MPs

BY JOSEPH OWUONDO

**A**FTER a long struggle, the Kenyan people finally realized their dream of having a new constitutional dispensation. However, the new law is posing various challenges. First, legislators need to move fast to pass the numerous legislations needed to fast-track implementation of the new constitution.

But it is incumbent upon the citizens and the media to keep exerting pressure on the government and the members of parliament to ensure that everything is put in place for smooth implementation of the new law.

This is because peace workers and experts in conflict studies have warned that Kenyans are not ready to go for the next general elections without necessary new structures being in place to forestall conflict such as those witnessed in 2007/2008 post election violence.

Although economic and governance devolution as proposed in the new law seems to be liberating for majority of citizens, it may be a recipe for conflict if proper structures are not put in place to ensure election of competent and credible governors and senators.

Given that with the proposed new governance system, the central government will give resources to be managed by the governors, mismanagement of the devolved funds would leave people very vulnerable to poverty and make them resort to violence and conflict to



Members of Parliament in session.

try to settle grievances.

Although the general elections are several months away, the country is already on a campaign mood raising suspicion that politicians may be positioning themselves to take up leadership roles for personal benefit.

The test is upon the voters who must make informed choices. The voters must ensure that the elected leaders

are honest individuals who are ready to serve their communities not themselves. For example, the governor must have exceptional leadership and managerial skills. They must be able to mobilize resources externally for their counties, ensure proper management of the billions from the national budget and plan for their counties adequately.

## UMSO CBO roots for peace

A COMMUNITY based organization (CBO) is spearheading peace building and conflict mitigation in the conflict hot spot area of Eldoret.

The Umoja Sosiani Community Based Organization (UMSO) in Uasin Gishu County was formed in February 2008 to assist victims of the post election violence.

It is a member of North Region Network Group (COPEN). UMSO works very closely with the European Union and Konrad Adenauer Foundation funded Partnership for Peace Project being implemented in Nyanza, Western and Rift Valley.

Its mission is to bring together all communities living in Uasin Gishu County in realizing the importance of peace and reconciliation for social and economic development.

The Partnership for Peace Project has helped the CBO hold six peace forums in conflict flashpoints like King'ong'o, Kamkunji, Kiroka, Chepkanga, Kapyemet and Munyaka.

In addition it has formed local village networks of women, youth and men for peacebuilding. The groups are encouraged to go into farming for self-reliance.

## New conflict panel launched in Western

BY CHRISTIAN OPITZ

**A** NEW facility for conflict detection and mitigation in Western province has been launched.

The Electoral Institute for Sustainability of Democracy in Africa (EISA) and the Interim Independent Electoral Commission Kenya (IIEC) launched the Conflict Management Panel (CMP) for Western Province in Kakamega recently.

The launch was presided over by the Mayor of Kakamega Town, Mr. Vincent Nyapola, and Mr. Felix Odhiambo, the Country Director of EISA-Kenya. The Partnership for Peace Project was represented by Ms. Hanna Carlsson, who is the International Project Manager and Ms. Jane Murutu, the project's Co-Manager. They were accompanied by Sabrina Adler and Christian Opitz, who are interns based at the project's Konrad Adenauer Foundation office in Kisumu City.

After the opening remarks, the participants were introduced to the concept of conflict as immanent feature of human interaction. They were also familiarised with

various types of conflict management, such as conflict settlement, resolution and transformation.

During the meeting 15 representatives, including six women, were nominated to serve in the panel for the Western region. Mr. Odhiambo said that similar panels have so far been launched in Mombasa and Nakuru, adding that a total of 10 panels will be formed in Kenya, including one each in Eldoret and Kisumu to be set up on November 4th and 5th respectively.

To ensure diversity of representation, the panellists are selected from different stakeholders comprising the business sector, religious groups, NGOs, and local authorities among others.

The overall objective of the CMP is to collect indications and to prevent and mitigate community tensions arising from electoral and political conflicts. In order to benefit from mutual capacities, it was agreed that a strong partnership be established between CMP and the Partnership for Peace Project that has built an elaborate and effective peace-network in the region.

*The writer is an Intern at KAS Kisumu*



Ms. Carlsson of the Partnership for Peace Project discusses the partnership with Mr. Odhiambo of EISA-Kenya during the meeting in Kakamega.



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# New law good for peacebuilding

By **GEORGE KABONG'A**

**T**HE promulgation of the new constitution seems to offer a refresh start for Kenyans generally and the pastoral communities in particular. In recent peacebuilding meetings organized by the Africa Peace Forum (APFO) in Nakuru, Isiolo and Eldoret towns, the majority of the stakeholders were optimistic that lasting peace could finally be realized in their volatile areas.

The optimism about the new constitution seems to be based on the fact that it sets out principles and provisions for shifting the sovereign power from imperial presidency to the people of Kenya. The conflict prone regions of Upper Eastern and North Rift are expected to gain immensely from this shift.

The culture of marginalisation, abuses of state power, impunity, corruption, ethnic conflicts and lack of basic services is expected to be something of the past for the historically marginalized communities.

In a way, the new constitution according to the residents and stakeholders tends to be very conflict sensitive in the way it treats all Kenyans as opposed to the old constitution. In their own words, if implemented well, it will entrench the rule of law as opposed to the rule of man. A look at the challenges facing the citizens in these regions and the provisions of the new constitution that officially remove the official



*President Kibaki displays a copy of new Constitution during promulgation.*

*Photo/File*

marginalisation will suffice. The opportunities and potential for growth and development brought by the new constitution for the people in the North Rift and Upper Eastern are enormous.

The Government of Kenya has published more than six national development plans. All these strategic documents did not

specifically deal with the needs and aspiration of the people in the two regions. There was no clear rationale or historical account for treating the citizens in these regions differently except for the colonial legacy and lop-sided Keynesian economics based on the trickle-down effect which emphasized investing in the centre.

The legal framework and Government policy documents have greatly contributed to stimulating and entrenching the marginalisation. The famous Ndegwa Commission created the hole that became the basis of official neglect, abuse and marginalisation of the people from accessing the national resource for development. The commission directed that individual interest is way above all collective social interests of the citizens in the country.

Exclusion of the regions from national development resource allocation over the last 48 years has resulted in lack of basic services, poor infrastructure, lack of political voice and tilted the representation of the people in the region.

The older regimes deliberately enacted specific laws for the purpose treating people in the regions differently since colonial period. They include the Outlying Districts Ordinance [1902], Special Districts Administration Ordinance [1934] and the stock Theft and Produce Ordinance [1933]. The others were Constitutional Amendment to section 19 of Kenya to section 127 in Chapter 57, which gave new powers to the President to rule Isiolo, Marsabit, Tana River, Lamu and other Northern eastern District through a decree under the Preservation of Public Security Act and the Northern Eastern and Contiguous District Regulations,

1966. And full force of discrimination and protection of unfair treatment was legalized by the Indemnity Act of 5th June 1970.

A series of Government policies were also developed to ensure the region remain marginalized and people are kept silent. The foundation was set by the Sessional paper No. 10 of 1965 and other administrative practices that gave the provincial administration powers and protection to mishandle the citizens of the region with impunity.

The outcome is many unaccounted massacres, human rights abuses and atrocities like rape, brutal act of tortures, and persecution of citizens, theft and destruction of citizen property and kept the population of the region silent. The leaders from the region have not always acted in the best interest of their constituencies.

The people of region until now lack automatic recognition and suffer negatively identify and stereotypes since the colonial period when the region was excluded and closed. There is general lack of trust that prevails in the relations between the people and state officers that seems to drive the policy paradigm since Shifta War [1963-1967].

According to Central Depository Unit (CDU), 2003 report, the movement in and out of Northern Frontier Districts-NFD was restricted by the colonial government, this mentality still have some influence on the mindset of many investment strategist. The issues from Upper Eastern region is always loaded with misconception of concerns about insecurity and safety that the Government has failed to remove.

The region is endowed with large numbers of livestock wealth but the policy of marginalisation has kept the citizen poor and children malnourished. The public and international agencies resource goes to food relief and security operations. The people faces cyclic drought, livestock and human disease and inter community conflicts is rampant. Social under-development is manifested by high illiteracy, road are impassable, there no electricity in almost all small rural towns and youth employment is high and land tenure problems are huge. The peoples of the Upper eastern voted yes during the referendum and this voice indicate change. The citizens of the Upper Eastern region look forward to new gains and wish to benefit from their vote.

Upper Eastern has two counties of Marsabit and Isiolo. The region has seven districts and population of nearly 500,000 people. It is classified as one of the poorest region in Kenya. The new constitution is expected to benefit the people of the region unlike the older one that created the marginalisation and poverty. The hope of

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## Kisumu MP's unique peace initiative

By **JOSEPH AWUONDO**

IT is rare to find peace initiatives facilitated by members of parliament specifically targeting the youth. Most politicians have always manipulated the youth as hecklers and agents of confrontation during elections.

But the Kisumu Town East MP Shakil Shabir has devoted time and resources to support peace initiatives by the youth from Kisumu town.

The MP has financed various youth projects targeting the violence hotspot areas like Kondele, Manyatta and Nyalenda. The projects are mainly income generating, environmental conservation and social welfares.

He also acquired ECOSAN toilets for the youth groups who are engaged in ecological sanitation. The Tivoli Youth

Trust was given six toilets, which are to be used as health facilities in Nyalenda Slums. Tivoli is made up of reformed former members of the outlawed Bagdad Boys.

Mr. Shabir has also provided computers to youth and women groups to make them more advanced in usage of new information and communication technologies. The members have also been sponsored for training in computer literacy.

They are connected to the rest of the world through internet through which they access peacebuilding and development information to enable members keep the peace and intervene expertly whenever there is a problem.

The Tivoli Youth members have benefited greatly from the Partners for Peace Project funded by the European Union and Konrad Adenauer Foundation.



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## New law good for peacebuilding

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the people is based on the fact the framework of the new constitution is driven by mentality of an inclusive approach, and entrenches human right as a strong tenet of Governance in Kenya. It transfers the sovereign power from the office of the President to the people of Kenya in which the people are expected to exercise their sovereign power in a democratic manner.

The new constitution has some clear legal provision's that shall directly benefit the people of the Upper Eastern. The pastoralists and other marginalized communities who have experienced abuses, violation of their human rights and persecution under the old constitution, will gain benefits in the new constitution under many provisions especially in chapters 3, 4, 5, 7, 12 and 16.

The most important gains for people are the recognition and identification. The new law recognizes and identifies the marginalized communities and groups explicitly. From the preamble, vision and throughout the framework, the document gives provision that benefits the people unlike the old constitution. In the Article 260, the marginalized communities are identified as the:-

(a) Communities that, because of its relative small population or for any other reason, has been unable to fully participate in the integrated social and economic life of Kenya as a whole.

(b) Traditional community that out of a need or desire to preserve its unique culture and identity from assimilation has remained outside the integral social and economic life of Kenya as whole.

(c) Indigenous community that has retained and maintained a traditional lifestyle and livelihood based on hunter and gath-



Wananchi celebrate during the promulgation. Photo/File

erer economy or

(d) Pastoral persons and communities whether they are: Nomadic or a settled community that, because of its relative geographic isolation has experienced only marginal participation in the integrated social and economic life of Kenya as a whole.

The 'marginalized groups' mean a group of people who because of laws or practices before, on, or, after the effective date were or are disadvantaged by discrimination on one or more of grounds in article 27 (4).

The new law shifts the power and authority of government to distribute benefits to new framework based on legal rights

that is enjoyed by all citizens. In the general provisions Article 19 (3) the rights and fundamental freedom in the bill of rights (a) belong to each individual and are not granted by the state. Article 20 (2) every person shall enjoy the rights and fundamental freedoms in the Bills of Rights to the greatest extent consist with nature of the right or fundamental freedom. Article 20 (3) (b) adopt the interpretation that most favours the enforcement of a right or fundamental freedom. Article 21 (3) All State organs and public officers have duty to address the needs of vulnerable groups within society, ..members of minority

groups or marginalized communities, and members of particular ethnic, religious or cultural communities.

The new constitution provides undertaking for equal treatment of all citizens, enjoyment of rights and freedoms and discriminations of any form that is based on ethnicity, religion, race, or beliefs. From chapters on citizenship, the Bill of rights from articles 1259, the new constitution is expected to provide new gains for the people of Upper eastern on various issues that includes equality, freedom, secure land administration, property protection and security.

Article 63 recognizes the ownership of the community land. The new legal framework legitimises authorities of the communities on the basis of ethnicity, culture, or similar community of interest to manage their land. The parliament is obliged to enact new laws that shall recognizes and encourages the application of traditional dispute resolution mechanisms and task the government to initiate investigations, on its own initiative or on complainant, into present or historical land injustices, and recommend appropriate redress. These provisions are captured under Articles 67(2) (e, f) and article 159 (c).

The New constitution guarantees the marginalized communities some affirmative action programmes that shall be designed to ensure that minorities and Marginalized groups:-

- (a) Participate and are represented in governance and other spheres of life;
- (b) Are provided special opportunities in education and economic fields;
- (c) Are provided special opportunities for access to employment;
- (d) Develop their cultural values, languages and practices: And
- (e) Have reasonable access to water, health services and infrastructures.

Affirmative action is defined to include any measure designed to overcome or ameliorate an inequity or the systematic denial or infringement of a right or fundamental freedom.

On the community land, the proof of ownership should have included the traditional as well as the legal means. The communities have no title deeds. The new constitution is silent about vast community land put under the national parks and national reserves.

The challenge therefore is the ability of Kenyans to heighten civic vigilance to demand and agitate for comprehensive reforms. Otherwise there is no foreseeable political will to implement these crucial reforms. It patently clear that politicians minds and focus is already in a campaign mood for the 2012 general elections.

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