

**GLOBAL CHALLENGES  
POWER SHARING**

**INNOVATIONS FOR  
SUCCESSFUL SOCIETIES**
**MAKING POWER SHARING WORK:  
KENYA'S GRAND COALITION CABINET, 2008–2013**

*Leon Schreiber drafted this case based on interviews conducted in Nairobi, Kenya in September 2015. Case published March 2016.*

*This series highlights the governance challenges inherent in power sharing arrangements, profiles adaptations that eased these challenges, and offers ideas about adaptations.*

**SYNOPSIS**

Following Kenya's disputed 2007 presidential election, fighting broke out between supporters of incumbent president Mwai Kibaki and opposition leader Raila Odinga. Triggered by the announcement that Kibaki had retained the presidency, the violence ultimately claimed more than 1,200 lives and displaced 350,000 people. A February 2008 power-sharing agreement between the two leaders helped restore order, but finding a way to govern together in a new unity cabinet posed a daunting challenge. Under the terms negotiated, the country would have both a president and a prime minister until either the dissolution of parliament, a formal withdrawal by either party from the agreement, or the passage of a referendum on a new constitution. The agreement further stipulated that each party would have half the ministerial portfolios. Leaders from the cabinet secretariat and the new prime minister's office worked to forge policy consensus, coordinate, and encourage ministries to focus on implementation. The leaders introduced a new interagency committee system, teamed ministers of one party with deputy ministers from the other, clarified practices for preparing policy documents, and introduced performance contracts. Independent monitoring, an internationally mediated dialogue to help resolve disputes, and avenues for back-channel communication encouraged compromise between the two sides and eased tensions when discord threatened to derail the work of the executive. Despite the odds firmly stacked against it, Kenya's Grand Coalition cabinet was largely able to govern according to a unified policy agenda. As a result, the coalition managed to implement some of the important reforms stipulated under the power-sharing deal, including the adoption of a new constitution. However, the level of political corruption remained high.

## INTRODUCTION

“We have never seen anything like this before . . . These were friends of ours before the election, and now they are trying to kill us like dogs,” is how one survivor described the enormity of the crisis that gripped Kenya in the wake of the country’s disputed 2007 general election.<sup>1</sup>

On December 27, 2007, following months of fierce and divisive campaigning, Kenyans went to the polls to elect a new parliament and president. The voting pitted the incumbent, Mwai Kibaki, age 76 years, and his Party of National Unity (PNU) against the candidate from the Orange Democratic Movement (ODM), Raila Odinga, age 62 years, a former member of parliament and minister, who had come in third behind Kibaki in Kenya’s 1997 presidential election.

During preceding years, tensions between political parties had risen steadily. For instance, before assuming office in 2003 as part of the National Rainbow Coalition, Kibaki had signed a memorandum of understanding with fellow coalition members in which he made several promises: One was to share power by creating a new post for an executive prime minister and by appointing to ministerial posts some members of other parties in the coalition. Another was to hold a national referendum on a new constitution that would reduce the powers of the president. Both commitments fell apart. The 2003 arrangement quickly broke down when Kibaki’s party filled most posts with its own members, who came predominantly from the country’s Kikuyu, Embu, and Meru ethnic communities. Coalition partners—which included many Luo, Luhya, Kalenjin, and Kisii among their members—were underrepresented.

Further, the parties in the National Rainbow Coalition, which included Odinga’s Orange Democratic Movement, disagreed over which powers the president should have and over how much authority to devolve to local governments. When Kibaki submitted his party’s draft of the constitution to a national referendum in November 2005, a group of ministers led by Odinga openly campaigned for a no vote on the grounds that the draft left too much power in the hands of the president.<sup>2</sup> The ministers got their way when Kenyan voters rejected the proposed constitution by a margin of 58% to 42%.<sup>3</sup> In reaction, Kibaki fired his entire cabinet and refused to reappoint any of the ministers who had opposed his draft. Fueled by the momentum of their victory in the referendum, the group that had lobbied against the Kibaki proposal quickly formed the ODM to contest the next elections, scheduled for 2007.<sup>4</sup>

When election day finally arrived in December 2007, early parliamentary results indicated that the ODM had won 99 seats against the PNU’s 43, but the number of seats won by other parties that also supported Kibaki made the split almost even.<sup>5</sup> The race for the presidency was even tighter. Despite polls initially showing Odinga to be in the lead, the electoral commission

eventually declared Kibaki the winner by a margin of 46% to 44%, with six other candidates capturing the balance.<sup>6</sup>

Amid widespread claims of electoral irregularities, the announcement of Kibaki's victory immediately unleashed violence between the two opposing camps. The unrest quickly spread and assumed an ethnic dimension, as supporters of the two candidates attacked people from communities supposedly associated with the rival party.<sup>7</sup> During a period of two months, fighting between PNU supporters and ODM supporters claimed more than 1,200 lives and displaced 350,000 people.<sup>8</sup> Kenya was facing its greatest crisis since gaining independence in 1963.

Under the auspices of a group of African leaders led by former United Nations secretary-general Kofi Annan, the two parties negotiated for 41 tense days, striking a deal on February 28, 2008. Under the agreement, Kibaki retained the presidency and Odinga became prime minister, a newly created position. Although the president remained head of state, according to the agreement the prime minister had the authority to “coordinate and supervise the execution of the functions and affairs” of government, including those of ministries. The agreement, known as the National Accord and Reconciliation Act (the Accord), further stipulated that “the composition of the coalition government shall at all times reflect the relative parliamentary strengths of the respective parties and shall at all times take into account the principle of portfolio balance.”

Participants dubbed the arrangement the *Grand Coalition*, and Kibaki and Odinga were collectively referred to as the deal's *principals*.

The question was how to make this system work. Although adoption of the Accord helped end the violence, the deep divisions between the two sides meant that the odds were firmly stacked against the Grand Coalition cabinet's capacity to function effectively. Tensions could easily disrupt the ability to plan, coordinate, and follow up on policy decisions. Odinga admitted that “it was not a coalition of the willing” and that “there was a lot of fear and suspicion amongst the coalition partners.”

## THE CHALLENGE

The capacity to govern required cooperation between the newly created office of the prime minister and the cabinet secretariat, the unit responsible for managing the agenda and ensuring ministers had the policy documents they needed. Odinga appointed as permanent secretary in charge of his office his former campaign manager, Mohamed Isahakia, who has a doctorate from Oregon Health Sciences University in Portland, Oregon. Isahakia would work closely with the prime minister's chief of staff, Caroli Omondi, a lawyer, in fulfilling the office's supervisory responsibility. In turn, Kibaki retained one of his closest advisers, Ambassador Francis Muthaura, to serve as cabinet secretary. Head of public service, Muthaura was also founding secretary-general of the East African Community, a regional economic block

established in 2000 that consisted of Kenya, Burundi, Rwanda, Tanzania, and Uganda. Muthaura's appointment as cabinet secretary initially attracted ODM complaints that his role impinged on Odinga's prime ministerial functions.<sup>9</sup>

Neither Isahakia nor Muthaura were strangers to controversy. Isahakia had faced fraud charges in court in 2002 for allegedly diverting funds while he was in charge of the national museum. He refunded some of the money in a civil settlement.<sup>10</sup> In 2004, the Parliamentary Accounts Committee investigated Muthaura for his alleged role in a complex leasing scandal. The International Criminal Court later put him under investigation for possible involvement in instigating the 2007 election violence, but the court dropped the charges in 2013, citing dead or tainted witnesses.<sup>11</sup> The decision to retain the two men met with initial resistance from their respective opposing camps—not for those reasons but because both were past the retirement age of 55 years.<sup>12</sup>

Together Isahakia and Muthaura had to support Odinga and Kibaki in implementing the Accord, develop policies, and ultimately deliver on the power-sharing deal's promise to lay a stronger foundation for Kenya's future. To achieve that, they had to overcome the pervasive lack of trust between the two sides. Bernard Namunane, chief political writer at the *Daily Nation* newspaper, emphasized that the PNU and ODM were "two fierce rivals." The ODM members believed the president had stolen the election, and the PNU representatives viewed the ODM as an intruder, Namunane explained.

The practical challenges centered on four closely related issues. The first involved reaching agreement on composition of the cabinet, followed by the creation and staffing of new executive offices. Even though the deal had established broad parameters for managing the Grand Coalition executive—including requiring consultation between the president and prime minister on the issue of appointments—it left determination of the exact size and membership of the cabinet largely up to the coalition partners. The constitution in force at the time required that ministers be members of the lower house of parliament and stated that their function was to "aid and advise the president."<sup>13</sup>

In addition to those stipulations, the Accord required that "the coalition government at all times reflect the relative parliamentary strengths of the respective parties." Practically speaking, the requirement meant that cabinet positions had to be shared "50 percent from the PNU and 50 percent from the ODM," explained Odinga. But the Accord's provisions with regard to the establishment of the power-sharing executive did not specify how that balance was to be achieved. "What is balance? It was all rather vague," Odinga said. "The Accord did not speak of the size of the cabinet or the number of ministries and their categorizations."<sup>14</sup> The first challenge Kibaki and Odinga faced was how to put the principle of "balance" into practice in the appointments of cabinet members. Even once they eventually reached consensus on the political composition of the cabinet, however, the

agreement did not spell out either how functions would be divided across ministries or how new offices' infrastructure and personnel needs were to be met.

Mutual distrust created a second potential pitfall: the risk of poor coordination across ministries. President Kibaki had previously shown a willingness to expand the size of the cabinet in order to accommodate coalition partners, as had been illustrated by a reshuffle in 2004 that resulted in Kenya's having 31 ministers, thereby making it the largest cabinet in East Africa.<sup>15</sup> There was thus a danger that the coordination problems already created by having such a large cabinet size would grow worse if the number of ministers kept increasing. Muthaura said it was therefore essential to create structures and practices that would ensure ministers from opposing sides were continually consulted and included throughout the entire policy-making process.

A further challenge lay in the need to reach agreement on the policy priorities that would guide the work of the cabinet. Lingering animosity between the two sides had created a very real risk of deadlock in cabinet decision making in the absence of a strong unifying agenda. The PNU and the ODM had conducted their election campaigns on the basis of two distinct manifestos. In some respects, the policy platforms those manifestos were based on were not radically different from each other. For example, both promised increased investment in infrastructure as well as universal free secondary education and free health care for children younger than five years of age. But they departed from each other on policies that influenced the distribution of power. The ODM promised to deliver a new constitution that devolved power from the central government to the local level "within the first six months" of its term.<sup>16</sup> It also emphasized equity and social justice and included a proposal to create an expansive social protection program that would provide a minimum level of income for extremely poor families. The PNU, meanwhile, placed relatively greater emphasis on economic growth and poverty reduction and said nothing about the constitution.<sup>17</sup>

Odinga recalled, "The challenge was to remove the divide so that we have one uniform government." Namunane added, "The executive needs to be united, needs cohesion, [and] needs to be reading from one script." But in the beginning, "there was no unity, there was no cohesion, and they were not reading from one script."

Finally, the principals and their teams had to develop ways that would encourage ministries to follow through and concentrate on policy implementation rather than on internal politics. There was a danger, though, that even if the cabinet were able to create "one script" on shared policies, ministries would be loath to implement projects seen to be favored by the other side. That possibility necessitated the creation of a credible mechanism to hold ministers accountable for their ability to deliver on policies. Professor Peter Anyang' Nyong'o, who served as a minister during the Grand

Coalition, phrased the challenge in terms of the need to create a “motivational factor” or incentive system to keep cabinet members focused on implementation and delivery.

## FRAMING A RESPONSE

The Grand Coalition got off to a rocky start. The work of government would first have to wait while the coalition partners quarreled over the allocation of cabinet positions for a full six weeks. But even though negotiations pertaining to the composition of the cabinet occasionally threatened to derail the process and tested the patience of the Kenyan public, they also set an important precedent for the coalition’s responses to future impasses by creating avenues for back-channel communication between Kibaki’s and Odinga’s respective camps.

### *Creating one cabinet*

The power-sharing deal was vague about the composition of the Grand Coalition cabinet, and the ambiguity led to an immediate stalemate between

the two sides. The impasse was further complicated by that fact that, on January 8, 2008, almost two weeks after the election, Kibaki had preemptively appointed 17 of his own ministers to the strategic portfolios of finance, internal security, defense, energy, and local government, as well as to other roles. Isahakia said: “At some point there was a complete breakdown. For almost a week there was no contact or discussion. Tensions were rising in the country, and the clashes that had subsided were beginning to resurface. There was now a danger that this thing would completely disintegrate and people would go back to their hard-line positions.”

In response, Isahakia and Muthaura met to discuss the advisability of a private meeting between the two leaders. Even though they now found

### **Long-Term Reforms: Agenda Four**

The power-sharing deal comprised four reform agendas: Agendas One (“Immediate action to stop violence and restore fundamental rights and liberties”), Two (“Addressing the humanitarian crisis and promoting national healing and reconciliation”), and Three (“Resolving the political crisis”) all focused on near-term political stabilization. Agenda Four (“Long-standing issues and solutions”) formed the core of the Grand Coalition’s joint policy program. The Agenda Four items included measures to address:

- Constitutional, legal, and institutional reform
- Land reform
- Poverty and inequality
- Unemployment, particularly among youth
- Consolidation of national cohesion and unity
- Transparency, accountability, and impunity

Within each category, the participants set forth a limited number of action items, which appeared in the appendix of the signed accord in the form of a matrix, which became a reference point in determining priorities and progress. (See full document at [http://www.south.co.ke/images/south/Useful\\_downloads/Statement%20of%20principles%20on%20long-term%20issues%20%20solution.pdf](http://www.south.co.ke/images/south/Useful_downloads/Statement%20of%20principles%20on%20long-term%20issues%20%20solution.pdf).)

themselves on opposing sides, Isahakia and Muthaura had a good working relationship that dated back to the era of authoritarian president Daniel arap Moi, when both of them served as permanent secretaries. “It was easy for [Muthaura] to interact with me, because we had had that relationship. There was now some dialogue,” Isahakia said.

Odinga and Isahakia accepted Kibaki and Muthaura’s invitation, and the foursome flew to the secluded Sagana Lodge in the foothills of Mount Kenya to engage in secret negotiations. “I was there with only one person,” Odinga said, “and he [Kibaki], too, was with only one person. And after long, long haggling, we agreed on what was thought a compromise.” Free from the pressure of being surrounded by hangers-on, Isahakia said the two leaders were able to “compromise in the interest of the country and finally agree on a list.”

The Sagana agreement initially met resistance, however—particularly from the ODM side of the coalition. The PNU had retained four of the five most powerful portfolios (finance, internal security, defense, and energy), and the ODM got only local government. But Odinga successfully sold the deal to his supporters by pointing out that “we probably got the best in terms of service to the people.” By emphasizing that control over service ministries such as water, agriculture, roads, housing, education, and health gave the ODM a prime opportunity to demonstrate its capacity to deliver, he eventually convinced most of his supporters to go along with the arrangement.

In addition to reaching consensus on a list of names to fill cabinet portfolios, a further important decision taken at Sagana was to interchange parties within each ministry—that is, to share management responsibility. Drawing on a strategy he initially used as a diplomat during his time at the East African Community, Muthaura proposed a system whereby “if the ODM got a ministry, they would have a minister who is ODM, but the assistant minister would be from the PNU.” Under this system, he said, no ministry could have any secrets.

Both principals accepted Muthaura’s proposal, and they extended the practice to the appointment of permanent secretaries. In the past, Kenyan permanent secretaries had wielded enormous influence over cabinet performance in their roles as so-called accounting officers, meaning that each was responsible for ensuring that all money allocated to his or her ministry be spent appropriately (the role of permanent secretary was the highest professional position in the civil service). Under the terms of the agreement, Kibaki would make those appointments in his role as president. But he did so according to the formula created during the Sagana consultations. Isahakia said that as a result, “If the minister was ODM, then the permanent secretary would be from PNU. That created accountability and checks and balances. The idea was to create—despite the power sharing—a coherent cabinet structure and a functional cabinet structure.”

Although the system of interchanging parties in the management of ministries was an important step in the right direction, it did not deal with the challenge of improving coordination. Each side had wanted more positions for influential supporters than even Kenya's large cabinet permitted. Therefore, to reach agreement at Sagana, the principals agreed to multiply roles by splitting some portfolios, creating two in place of one, for a total of 17 new ministries. Odinga said, "It was a very bloated cabinet." The final list had positions for 40 ministers and 52 assistant ministers.<sup>18</sup> But the larger the cabinet, the harder it would be to convene productive meetings, win agreement on policy choices, or collaborate.

Nevertheless, Isahakia regarded the dialogue he and Muthaura had developed at Sagana as one that "set the precedent in terms of how we would then work once the government was in place." In the five years that the power-sharing cabinet existed, interactions emphasized "compromise, give and take, and common ground." The Sagana agreement thus represented a powerful model of the way back-channel communication between the two offices could create conditions for compromise, particularly during times of crisis.

#### *Setting up new offices*

A further requirement for establishing a functional cabinet was to ensure that the new ministries and offices created as part of the Sagana agreement were properly structured and staffed. That proved particularly trying for Isahakia, who was tasked with setting up the prime minister's office. Even though the Accord specified that his office would coordinate and supervise ministries, such an office did not yet exist.

When Odinga's team went to have a look at the office they were assigned, they found only a few desks and no telephones or computers. "The immediate challenge was to operationalize the office," Isahakia said. Muthaura lent his support: "That was key," Isahakia said. Mindful of its symbolic importance, Muthaura had proposed that the powerful ministry of finance vacate one floor in its building in favor of the prime minister. In addition to thereby ensuring that the "offices of the prime minister and the president were directly across from each other," he also worked with Isahakia to make sure the prime minister had adequate office support as well as an official escort and a security detail.

With funding from the United Kingdom's Department for International Development, Odinga and Isahakia then focused on how best to organize the office so it could support the prime minister's work. They created an advisory team for strategy and coordination, known as the Prime Minister's Delivery Unit. The team's role was to help review policy documents before the documents went to the cabinet. They also consulted with Muthaura in the creation of a strategic plan which defined the role of the office and, according to Odinga, made "the entire system more efficient."<sup>19</sup> One of the

procedures subsequently introduced by the Delivery Unit was a “prime minister’s hour” every Wednesday in parliament. That procedure enabled Odinga to “articulate his ideas and policies [and] to bring out a sense of presence and a clear role for the prime minister not only in the cabinet but also in the national assembly,” Isahakia said. The prime minister’s hour was also a way to “create a relationship between the legislature and the executive.”

With a structure in place, the next crucial step in creating a functional prime minister’s office entailed the appointment of personnel. The process benefited from the fact that the country had a well-established Public Service Commission, which was the body that appointed all public servants below the level of permanent secretary. Titus Gateere, who chaired the Public Service Commission at the time, recalled how “the office of the prime minister was a new office, so one of the most important things that had to happen is that it had to be staffed.”

At first, the recruitment procedures the leadership team had to follow were unclear. “The [Public Service Commission] recruited competitively, but we had to walk a very thin line, because the prime minister coming into government for the first time would obviously have preferences,” Gateere acknowledged. “But constitutionally, the prime minister did not enjoy the privileges the president enjoyed.” In the case of the president’s office, staff could not be appointed without the president’s OK. However, with regard to the prime minister, “that privilege was not spelled out [in the Accord]. What we decided to do as the [Public Service Commission] was to quietly extend that privilege to the office of the prime minister.” Gateere said they did that “so we could be perceived as supportive of the new form of government.” Mindful of the potential sensitivity of the approach they had adopted, the Public Service Commission also decided it “wouldn’t share that with anyone else. As long as we were convinced it was for the good of this country, we decided that is what we are going to do,” Gateere said.

The commission also had its hands full in meeting the staffing needs of the 17 newly created ministries. But in contrast to the office of the prime minister, the Public Service Commission could follow its normal procedures in recruiting staff for the ministries. While delegating to permanent secretaries the responsibility for appointments to lower-level positions, the commission directly appointed staff to senior positions in the new ministries. In addition, the creation of new ministries often involved the transfer of existing functions from one portfolio to another—without the need for hiring new personnel.

A final task associated with expanding the cabinet was to decide where to locate departments in ministries that had been split as a result of the agreement between Kibaki and Odinga. The president had assigned the responsibility for dividing ministerial functions to Muthaura, who worked with the permanent secretaries of finance, planning, and public service to

share departments “in the most logical way.” The resulting document was then presented to the president, “and in most cases he could see the rationale.” Once the president signed, the job was finished. But Muthaura also noted that after the apportionment of ministerial responsibilities was announced in the presidential circular, ministers did have the option of making an appeal to the president if they did not agree with the ways departments had been divided. The process nevertheless led to complaints from ODM ministers about a lack of consultation and President Kibaki’s “high-handed” approach.<sup>20</sup> A case in point was the ministry of health, which had been replaced by a ministry of public health and sanitation and a ministry of medical services, the latter headed by Nyong’o, a political science professor who had earlier been head of programs at the African Academy of Sciences. “The health ministry that had previously existed had disappeared,” Nyong’o said. “The dilemma I had at first was how health was divided between public health and sanitation—and medical services.” Nyong’o tried to negotiate but acknowledged that the division of ministerial functions was ultimately the constitutional prerogative of the president, and because the Accord did not stipulate a clear role for the prime minister in the division of functions across ministries, the ODM ultimately yielded to Kibaki’s decisions.

## GETTING DOWN TO WORK

With cabinet ministers and the requisite offices in place, it was time to focus on delivery. Implementing coherent policies in a bloated cabinet amid a tense environment would require the creation of a shared policy framework, the enactment of procedures and mechanisms that ensured coordination in policy making, and motivation in getting ministries to focus on policy implementation rather than internal competition. In responding to those challenges, managers could draw on fledgling structures that already existed. They agreed to draw on a national strategy negotiated earlier, called Vision 2030. In addition, to help reduce the risk of gridlock, they decided to retain both performance contracting and the practice of convening cabinet committees instead of the whole cabinet—two systems the first Kibaki administration had put in place.

### *Building a shared agenda*

As soon as cabinet appointments and staffing decisions were complete, the president and prime minister established a joint task force to develop a single coherent policy framework that would guide the work of the power-sharing cabinet. The aim was to define policies that would help achieve the action items in the matrix attached to the Accord the parties had signed.<sup>21</sup>

The task force was cochaired by Nyong’o, representing the ODM, alongside Professor George Saitoti, a PNU stalwart and cabinet veteran who’d once been vice president. Together with a group of public servants led

by cabinet secretary Muthaura, they started to harmonize the two parties' campaign manifestos. Muthaura regarded that step as having been "very important, because [the manifesto] was the basis for government policy papers. Immediately after the Accord was signed, we started working on the harmonization of the memorandums." Fast action was essential.

The parties profited from the fact that "the National Accord actually prescribed for the coalition what to do during the five years," said Nyong'o. Even though the agreement had been vague on the composition and operation of the power-sharing cabinet, it was much more specific when it

**Constitutional Reform Implementation Agenda**

The effort to create a shared policy agenda benefited from the fact that Agenda Four of the Accord contained strict timetables for the implementation of reforms. A prominent example was the matter of constitutional reform, which was outlined according to the following schedule.

<b>Action</b>	<b>Time Frame</b>	<b>Focal Point</b>
Consultation with stakeholders	Consultations launched and review statute enacted by end of August	Ministry of Justice, National Cohesion, and Constitutional Affairs
Parliament to enact Constitutional Review Statute, including a timetable	Constitutional reform to be completed in 12 months from the date of enactment of statute	
Parliament to enact referendum law Draft constitution prepared in consultative process, with expert assistance Parliament to approve People to enact through a referendum		

came to articulating the long-term Agenda Four reforms that the Grand Coalition had pledged to undertake, which included steps for undertaking the achievement of broad goals such as constitutional reform. "There was a very strict agenda; it was very clear. So, whatever was going to be in the harmonized manifesto had to be in line with the National Accord." Nyong'o regarded such specificity of the goals articulated in Agenda Four—which included strict timetables for implementation—as having been particularly decisive when it came to resolving the parties' divergent approaches to constitutional reform. "The National Accord cleared up those differences," Nyong'o said. "If the agreement had been more vague [on the issue of reforms], there would have been much more conflict."

Negotiating policy priorities proved to be much less contentious than initially anticipated, because "a number of people in the coalition, including the prime minister, had also been ministers in the previous government," said Nyong'o. Not only were key

members of the two sides therefore familiar with each other and with existing cabinet procedures, but there was also an opportunity to build on preexisting policy unity on many issues. The effort especially benefited from the fact that the previous government, which had included members of both parties, had already managed to reach some consensus around a set of goals articulated through the Vision 2030 national strategy, which had been developed with civil society consultation beginning in 2005. Guided by a detailed set of policy priorities, the plan aimed to make Kenya a middle-income country; to improve indicators such as health, education, and gender equality; and to strengthen democratic institutions.<sup>22</sup> Nyong'o regarded the fact that they "inherited Vision 2030 from the previous government" as an important element in forging consensus around a shared policy agenda. [For more on Vision 2030, see ISS case study *Planning Transformation in a Divided Nation: Creating Kenya Vision 2030, 2005–2009*].

Guided by the reforms stipulated as part of the Accord's Agenda Four and aided by the existing consensus around the national strategy contained in the Vision 2030 plan, Muthaura recalled how the team integrated the two party manifestos into a single document within "a matter of one week." The harmonized manifesto was formally introduced and adopted in June 2008 during a subsequent program of induction training for ministers.<sup>23</sup> Odinga stressed that that step served to further build consensus, and the fact that the manifesto "blended the positives of the two documents" meant it was set to "become the blueprint for the coalition government."

#### *Developing a decision-making system*

Because the negotiations set up new ministries and redefined the mandates of others, some appointees initially found it difficult to ascertain which functions rightfully belonged in their portfolios. The problem highlighted an urgent need to coordinate—especially in a cabinet whose members remained divided.

Both the president and the prime minister pinpointed the need for clarity and coordination at the first cabinet meeting. "We made it clear that there were not two governments. There was going to be one government, and ministers had to work together as one team," Odinga said. But Odinga also quickly realized that a cabinet meeting of 40 ministers made it "impossible to have any meaningful discussion of cabinet memoranda."<sup>24</sup> After consulting with the president, Odinga's newly constituted office took the initiative and prepared a proposal to greatly expand committees' roles as a remedy for the lack of coordination and the deliberation difficulties in the cabinet.

Whereas under the previous administration they had been featured only on an occasional basis in specific areas, the cabinet committees would now assume center stage in the policy-making process. Isahakia prepared and circulated a memorandum informing ministers of the new procedure, which

included a stipulation that committee meetings would be open to permanent secretaries and technical experts. Ministries were clustered according to their functional areas into five committees: production, service, infrastructure, security, and finance. Muthaura explained that “We created cabinet committees, and they were all chaired by the prime minister. Most of the time, he chaired the meetings, but he could ask one of the deputies to chair some of the [committee meetings].” Whereas the committees under the chairmanship of the prime minister met on Tuesdays, the full cabinet was chaired by the president and met on Thursdays, “so there was that sharing of cabinet responsibilities, which was very good,” said Muthaura. “The prime minister [now] also had authority over the cabinet.”

Odinga further interpreted his coordination role as including the responsibility to appraise memorandums before they went to the committee meetings. Bitange Ndemo, a business school professor who served as permanent secretary in the ministry of information and communication during the time of the Grand Coalition, said this practice offered technocrats an additional opportunity to “discuss things that are going to be discussed at the cabinet level.” In the cabinet, permanent secretaries were not permitted to be present. “But the prime minister allowed the permanent secretaries to make presentations on policy documents that would be discussed in the cabinet,” he said. “It slowed things, but that aspect was not costly because it helped people begin to understand one another.”

In addition to facilitating coordination, this procedure empowered permanent secretaries and senior public servants. Ndemo lauded Kibaki for supporting the new practices. Kibaki himself was comfortable delegating responsibility to the ministries. “It gave us a lot of power, and we felt fully responsible.” Similarly, Odinga, too, invited more participation. Ndemo said, “In meetings, he allowed everybody to speak; there was no bias.” As a result, the policy-making process benefited from the way “more people [were] able to think differently and do things differently.”

Once Odinga’s office had approved a policy memorandum, the memorandum would go to the appropriate cabinet committee for discussion. Committee meetings were forums for dialogue that often included permanent secretaries and technical experts. Just like the full cabinet, decisions were based on consensus rather than a majority vote.

Ndemo credited the committee system for the fact that “Anything that had been approved by the prime minister actually always went through at the cabinet level because people are aware of it. I think that process itself really helped create the trust that was not there from the beginning,” he said. Nyong’o echoed those sentiments: “Whenever a cabinet minister wrote a cabinet paper, it would be discussed first at those cabinet committees with the relevant ministries before it went to the cabinet. It worked very well. Once papers went to the cabinet, the others had already been informed and it had been discussed with a wider group of people.”

Following adoption at the committee level, policy papers intended for the full cabinet received further review. Permanent secretaries moved them into the format Muthaura's cabinet office had laid out. Each memorandum started with the proposed policy's objective and was followed by sections outlining background information, inputs from civil society or consultants, and the framework for implementation. The final section introduced recommendations and stated the actions requested of the cabinet. An appendix at the end also allowed for the inclusion of more-detailed information.

The application of that standard format across all ministries contributed to the credibility of the cabinet procedure by ensuring that ministers from both sides of the coalition had to follow the same rules in crafting policy proposals.

Once policy papers had been drawn up by the permanent secretaries, the papers went to the cabinet office for vetting—always in continuous consultation with the prime minister's team. Muthaura was ultimately responsible for making sure that cabinet papers were up to standard and that “they were distributed to cabinet members at least two days before the meeting. A cabinet paper [had to] be countersigned by the relevant ministers; otherwise, it wouldn't be submitted,” Muthaura said.

Muthaura's office also handled the important matter of setting the agenda for the fortnightly cabinet meetings in consultation with the president and the prime minister. And to further encourage the cabinet to complete its business in a single sitting, Muthaura grouped materials for the cabinet meetings into two categories: category A and category B. Category A included issues that required discussion. Category B included things that required only notification.

Through the strengthening of the committee system and the associated delegation of authority, cabinet managers turned one of their greatest potential coordination problems into an asset. Francis Muthaura, who had amassed four decades of experience in public service, including nine years in the position of cabinet secretary, said the cabinet “was [more] efficient with 40 ministries [than when] it had fewer. I thought there was greater focus and more in-depth focus on various activities when the government was big.” In particular, the committee system “was very good in terms of creating confidence. Despite the size, [the cabinet] became very efficient because of these cabinet committees.” With the bulk of the work already done in the committees, “the bloated cabinet could now handle up to 10 memorandums per three-hour sitting. The whole cabinet thus became very active,” said Odinga, who had himself been a minister under two previous administrations. “The bloated cabinet in this way became more efficient than smaller cabinets had ever been.”<sup>25</sup>

*Focusing on delivery*

Even with the adoption of a shared agenda and improvements in interministerial coordination during the policy-making process, the possibility that infighting or deadlock within ministries would hamper the actual implementation of government programs both sides wanted remained an ever-present danger. To address the problem, Odinga decided to make use of authority transferred to his office earlier. When the prime minister's office was created to "coordinate and supervise" government functions, one of the functions it acquired was the department for performance contracting, which had originally been housed in the presidency. Odinga decided to use performance contracting as a tool to encourage "a sense of competition" in terms of delivery.

Performance contracting involved the creation of a clear set of performance targets for each ministry combined with systematic efforts to collect data on ministries' performance and reward good performance. In Kenya, performance contracting dated back to two unsuccessful attempts to introduce the practice in the 1990s.<sup>26</sup> When Kibaki first won the presidency in 2003, his government launched a new pilot program at 16 state corporations. In 2005 and 2006, the experiment expanded to include pilots involving permanent secretaries and major municipalities.<sup>27</sup> The successful implementation of those projects attracted global recognition when Kenya won the 2007 United Nations Public Service award for its "performance-based contracting system in the public sector."<sup>28</sup>

By the time the Grand Coalition government started functioning in 2008, the Kibaki administration had already amassed promising experience with performance contracting, but "it had never been fully developed or institutionalized," said Odinga. As the person charged with the supervision of ministries and with the responsible department now housed in his office, Odinga "wanted to change all that."<sup>29</sup> However, if the Grand Coalition was to avoid the mistakes made during the 1990s, when some charged the evaluations were unfair, the permanent secretary of public sector reform and performance contracting, Richard Ndubai, would have to win support from principals and ministers up front and establish a system participants considered fair and credible.

From the very beginning, both principals demonstrated clear commitment to performance contracting. In addition to having personally revived the approach during his first term, President Kibaki again exhibited his willingness to delegate authority by transferring the responsible department to Prime Minister Odinga's office. In turn, Odinga wasted no time indicating his support for performance contracting by prompting his own staff to accept the program. "There were feelings that [performance contracting] is from the other side, because the program was a continuation of a program started by . . . President Kibaki," recalled Ndubai—"not by the

prime minister but quite a lot of the managers surrounding the prime minister.” Ndubai said the prime minister “was very, very supportive.”

With the two principals providing political support, Ndubai worked to expand performance contracting across the entire structure of government—including at the ministerial level. Mindful of the decisive need for ministries to have a sense of ownership throughout the process, the annual setting of performance targets originated within the ministries themselves. “Every ministry developed a strategic plan toward the end of the [financial] year. On the basis of the objectives in the strategic plan, every ministry would prepare by setting up performance targets for the following year. There was a standard template for performance contracts, which had about six performance criteria. Under each criterion was a listing of performance indicators.”

This first set of targets would then be adjusted through a round of consultations with “external negotiators from various sectors of the economy, but who are not public servants,” Ndubai said. Those external stakeholders “would sit with permanent secretaries and senior officers in ministries and deliberate on the propriety of the targets.” In cases when inappropriate indicators were used or targets had been set too low, “the external person would come and say, ‘This is rubbish. As a consumer of government service, this is not what we want.’ And then [the targets] would have to change,” added Ndubai. The negotiations would take place all on one day, “with all of the ministries under one roof for the purpose of drawing on collective synergies and also resolving ministerial interdependencies.”

The sequencing of those two steps was important. It meant that ministries immediately felt a sense of ownership over the targets, while at the same time, “the negotiation at the beginning was critical, [because] we don’t want the government to set its own targets, to implement them, and then evaluate itself.” The resulting performance targets were practical and highly detailed. For example, in the agricultural sector, one indicator strove to increase the “number of months of national food consumption covered by strategic food reserves” from 6 months in 2010 to 12 months by 2012. In the infrastructure sector, targets were established to increase the respective total kilometers of rural and urban roads by 40% and 30%, and environmental indicators aimed to increase the total square kilometers of forest cover in the country by 30%.<sup>30</sup>

It was only after the bulk of the performance targets had already been set that Ndubai’s department undertook a vetting exercise. It was carried out largely as a quality control stage to ensure uniformity in the way the negotiating parties had applied the department’s technical guidelines in drawing up targets. “After that, the document is prepared into a draft in readiness for signing.” The signing of the resulting performance contract in itself constituted another important part of the process, because it took place in public. Odinga said: “We would go to [the] Kenyatta International

Conference Centre, and the media would be invited there. Each minister would sign, the permanent secretary signed, and the prime minister countersigned.”

Ndubai’s office monitored ministerial performance on a quarterly basis, although the main performance evaluation was done at the end of the financial year by private sector auditing companies, not by civil servants. The aim was to give the process credibility. The government was “not seen to be evaluating its own performance,” said Ndubai. Odinga affirmed the importance of this system: “This evaluation was done professionally by independent people whose integrity was above board. Usually, we had university professors [and] private consultants from reputable firms like PricewaterhouseCoopers. They did a professional job.”

The final event in the annual cycle involved another ceremony at the country’s main conference center, where the government released the results in public. “This time, the president would come as well, [and] I would read the results,” said Odinga. The prime minister announced the ranking of ministries from number 1 to number 40 based on their performance. The media covered the events favorably, with headlines such as “Performance contract plan now begins to yield fruit.”<sup>31</sup> The top three performers received trophies from the president as well cash bonuses approximately equivalent to US\$320,000 for first place, US\$192,000 for second place, and US\$128,000 for third place.<sup>32</sup> The prize money was shared throughout the three ministries, with about 3,000 employees benefiting from the award. Cabinet secretary Muthaura said the process played a significant role in incentivizing public servants to focus on delivery: “The top ministries were being paid extra salaries . . . And ministries were really competing.”

Despite some complaints from poorly performing ministries that they had been rated according to unfair criteria, the significant role ministries had in setting their targets, along with continuous involvement by external professionals, resulted in widespread acceptance of the evaluation results and minimized discord. “This [created] a sense of competition because from then on, there would be debates in the ministries . . . to find out why the ministry had performed poorly,” said Odinga. “In the end, you found that it had the desired effect because the following year, you would see changes. The biggest one was the office of the attorney general, which had been last and came in first in the subsequent . . . year.” Muthaura agreed: “No ministry was last for two consecutive terms. It’s just once, because after that, they work very hard; and next time, you see they have [improved].”

Along with political support from both principals, the system of performance contracting thus provided clear incentives for delivery and featured credible evaluations. Ndubai also credited the country’s largely professional public service for aiding in program implementation. When the Grand Coalition came into office, “it [found] a government that was working,” Ndubai said. “The public service was running as it had been

running.” Despite its relative efficiency, the ethnic skew of the public service had the potential to raise suspicions over political bias. A 2009 study by the National Cohesion and Integration Commission found that some groups—particularly the Kikuyu and the Kalenjin—were “overrepresented” in the public service, whereas most others had smaller shares in the public service than in the general population.<sup>33</sup> When combined with data showing that the PNU was supported largely by the Kikuyu and the related Embu and Meru ethnic groups and that the ODM garnered significant support among the Kalenjin, Luo, and Luhya, the ethnic skew of the public service could further undermine trust between the two sides.<sup>34</sup>

But the legitimacy with which performance contracting was perceived meant it provided a mechanism to encourage both cabinet members and public servants to remain focused on delivery. Bitange Ndemo, who got to know the system well from his vantage point as permanent secretary, said, “The contracting really helped in terms of mobilizing people to work toward a special goal,” although he added that the ministries sometimes set goals that were too low.

Nyong’o said the creation of a shared agenda and the combination of the committee system with performance contracting meant that “there was never significant competition between ODM and PNU ministers” on the basis of party affiliation. Instead, ministries competed against each other on the basis of performance, because performance awards were granted on a ministerial basis. “The committees were there to coordinate; performance contracting was there to motivate,” Nyong’o concluded.

## OVERCOMING OBSTACLES

Even as the parties put new cabinet management practices in place, political tension sometimes impeded progress. Boycotts slowed implementation of the Accord in April 2009 and again in 2010. In the first instance, the parties failed to agree on an agenda for a planned retreat. The Permanent Committee on Management of the Grand Coalition convened and finally broke the impasse about two weeks later, but cabinet meetings stopped until the committee reached a tentative agreement on key issues—notably, the process of consultation on appointments. From February to April 2010, the ODM launched a second boycott when Kibaki overruled Odinga’s suspension of two ministers suspected of engaging in corruption. “There were unexpected situations that put the coalition in a very difficult situation,” said Odinga. “Moments like those did bring some tensions.” Such flash points tended to arise when ministers were suspended without prior agreement between the two principals, or when one of the parties wanted to make a controversial appointment, or when the ODM and PNU could not agree on the substance of reforms.

Such moments of crisis threatened the cabinet’s ability to govern effectively. And although the two principals were the only people with the

power to ultimately resolve such disputes, cabinet officers worked behind the scenes to create the necessary conditions for Kibaki and Odinga to keep the coalition on track. Their two most effective tools in that endeavor were the strong relationship between Muthaura's and Isahakia's offices and the existence of an independent project to monitor the Grand Coalition's progress in meeting the requirements of the power-sharing deal.

*Facilitating communication*

Drawing on the early experience of creating the conditions for dialogue and the eventual resolution of the standoff over cabinet nominations, Muthaura and Isahakia were mindful of the potentially significant role their offices could play in fostering communication between the two sides during times of crisis. They initially expressed that understanding through the creation of a formal cabinet committee for coalition management, which included the president and prime minister as well as prominent ministers from both parties. "If matters were creating a crisis, then they would be escalated to that [committee]," Isahakia said. One prominent example of a time the coalition management committee got activated was in relation to the ICC case, when "the PNU side took a position different from that of the ODM side." In this instance, the committee "worked quite well because it created a forum wherein there would be discussions and debate," said Isahakia.

But that formal approach to facilitating communication ran into problems that illustrated the importance of cabinet managers' having the right emotional disposition. Caroli Omondi, who served as Odinga's chief of staff, described how at one particular meeting, the ODM's convener refused to allow President Kibaki to sit in his usual chair. The issue quickly escalated into a heated argument and "because of those problems, [the committee] then died," said Omondi. From then on, "the managers couldn't even agree on an agenda or the seating arrangement. We tried, [but] at the end of the day, it died."

Partly as a result of that experience, the informal mode of communication between Muthaura's and Isahakia's offices became even more significant. According to Isahakia, "this would involve arranging for the president to meet with the prime minister one-to-one [to] resolve issues that were difficult." He said that often, that approach led to agreement. In creating opportunities for those informal dialogues between the principals, Isahakia emphasized that his "interaction with Muthaura was always important—sometimes preempting potential problems. At times when I sensed there were issues that our side would take a hard position on [that could] then lead into an impasse, I would quietly go and seek an audience with Muthaura."

If they were unable to come up with a solution, Isahakia would even "ask Muthaura to actually cross the road and come to the prime minister's

office and engage him. And often, things got resolved that way.” Omondi confirmed that there were many instances—including during periods when the ODM refused to attend cabinet meetings—“when Kibaki wanted something and [Odinga] didn’t agree, so it was up to Muthaura and me and Isahakia to sit down . . . and negotiate.” Muthaura added that after a meeting between the managers, they would then “tell the two principals to meet and sort it out, and [once] they agreed to talk, things became normal.”

The existence of this private back-channel communication between Kibaki and Odinga also enabled them to present a united front in public and in the cabinet. “In the eyes of the public, it was very good to see them working,” Muthaura said. To Nyong’o, it appeared that “the prime minister and the president worked, in general, very harmoniously.” He said that “At the cabinet level there was always a very gentlemanly approach. Once they came to the cabinet, the prime minister and the president [bound] together.” Isahakia suggested that such cordiality was possible because there “was often give and take: ‘We will cede ground this time, but next time, we will remind you that we ceded ground, so it’s your turn now.’” Based on his experience, Omondi concluded that “for a Grand Coalition to work, the people immediately managing the two principals must out of necessity . . . always have back-channel communication.”

#### *Monitoring progress*

Another key instrument that helped keep the coalition focused on the reforms specified by the Accord was the Kenya National Reconciliation and Dialogue (KNDR) monitoring project.<sup>35</sup> The principals had initially balked at the idea of involving an external monitor, but mediator Kofi Annan had recommended this innovation, and the idea grew more appealing as time passed.

With funds from the Open Society Institute and the United Nations Development Programme, Annan’s team put out a public tender for a company to monitor implementation of the power-sharing deal. South Consulting, a Nairobi-based partnership of professionals from eastern and southern Africa, won the contract to conduct opinion polls, research, and analysis of the Grand Coalition’s performance. Led by Karuti Kanyinga, a professor at the University of Nairobi, South Consulting had a strong record of research and advocacy on issues of democracy and governance in eastern and central Africa.

Kanyinga recounted how he immediately assembled a team of international experts from South Africa and the United States to help design the indicators chosen to monitor compliance with the Accord. Once the monitoring framework was in place, the KNDR team conducted research and countrywide opinion polls to assess citizen perceptions of the Grand Coalition’s performance. The team also tracked progress in achieving the action items in the matrix and the Accord’s appendix and recorded in general

terms any problems that had arisen. The findings were collated into quarterly reports and submitted to Annan's team prior to their public release. The first monitoring report was published in January 2009, eight months after establishment of the power-sharing government. Kanyinga's group subsequently published a report every quarter through February 2013.

After passing through Annan's office, the reports went to the same group of negotiators who had drafted the original power-sharing Accord. Known as the Serena Dialogue team (after the hotel in Nairobi where the meetings took place), this group included a convener and four powerful ministers from each side of the coalition. Martha Karua, who was justice minister and represented the PNU at Serena, said, "After the Accord, we now became like a committee of the cabinet that would deal with all legislation related to the National Accord." The Serena team focused on creating proposals for the cabinet on how to implement the Agenda Four items. Chaired by Annan's chief of staff Nana Effah-Apenteng and guided by the KNDR monitoring reports, the quarterly Serena meetings became venues for resolving reform deadlocks and tracking the state of the coalition.

Kanyinga saw it as his responsibility to keep reminding the coalition partners that power sharing was not an end in itself but that "the coalition government came into place to have a far-reaching effect on the lives of Kenyan citizens." The goal was to provide members of the Grand Coalition with a clear sense that "This is what is happening in the country; this is what we agreed; and this is what's not being attended to." However, Kanyinga was mindful that monitoring would be taken seriously only if it was perceived as being objective and owned by Kenyans. "We had international experience, but then [the project was] run by a Kenyan and produced by Kenyans themselves who had been recruited on their ability to deliver. And we made sure that whatever we produced must not be seen to be biased," Kanyinga said.

According to Omondi, who represented the ODM at Serena, the monitoring project was a success on both counts. "Karuti [was] independent, but he was also a local guy [who] understood the environment. They used to give us these implementation status reports that would point out where the weaknesses were and then make suggestions for remedial measures." Omondi's belief that the monitoring was ultimately "very valuable" in keeping the coalition focused on delivery was echoed by the PNU's Karua, who said Kanyinga's team "did a good job of critiquing what is happening."

The feedback provided through monitoring became especially important during periods of crisis and policy gridlock. This was because "policy gridlock is not technical; it is always political," said Kanyinga. The findings therefore closely mirrored the state of coalition relations: reminding the coalition partners that they were being watched when political disagreements threatened to derail the Grand Coalition and praising the partners when progress was made. During times of crisis, the reports would conclude that

the coalition “continued to lack cohesion and is still perceived as ‘two governments-in-one.’”<sup>36</sup> But at other times, they lauded the fact that “Relations between the two principals have greatly improved . . . Disagreements and conflict over the meaning of ‘real power sharing’ and ‘portfolio balance’ have also declined.”<sup>37</sup>

Even though the creation of a harmonized manifesto, the strengthening of cabinet committees, and the focus on performance contracting significantly improved cabinet performance, those aspects were not always enough “when it came to certain politically sensitive things,” Kanyinga added, noting that “the reports would capture policy gridlock in the sense that sometimes the disputes would spill over into the policy-making process and policy implementation. We would talk [at Serena] about the consequences of policy gridlock, [as well as about] evidence of things not moving and how the public is reacting.” The result was that “both sides of the coalition would offer solutions, [and] that would then move things forward.”

In addition to their prominent role during the Serena Dialogue, results from the monitoring project were also featured at the Kenya National Dialogue and Reconciliation conferences Annan hosted annually. Alongside the political parties involved in the coalition government, the conferences brought together mediators, international advisers, civil society, media, and members of the business community to “take stock of the achievements and shortcomings” of the Grand Coalition. Annan’s hope was that the conferences “will help our Kenyan friends overcome the challenges confronting them in the implementation of their reform agenda.”<sup>38</sup> Namunane, who attended the yearly summits, recalled that “during those conferences, the [KNDR reports] gave [all the details] of the challenges the Grand Coalition faced.”

Widespread media coverage of the monitoring reports helped further increase pressure to keep the cabinet focused on the business of government and on undertaking the Agenda Four reforms. Whenever the system threatened to break down, newspapers used the monitoring team’s findings in articles with headlines that loudly proclaimed, “Leaders to blame for reform delays,”<sup>39</sup> “Coalition rift poses threat to reforms,”<sup>40</sup> and “Kenya reforms pace too slow.”<sup>41</sup> Kanyinga recalled how that vigorous press coverage “silenced the bickering within the coalition, because they realized the public is here and they are watching us.”

When disagreements persisted, international mediators stepped in to provide help. Annan’s office continued to make dialogue possible through Annan’s role as an independent facilitator. “He remained relevant,” said Kanyinga. “Because Kenyans did not trust each other, there was a need to have Kofi Annan as an honest broker.” Omondi agreed: “Kofi Annan was never out of Kenya for the last six years. He was there from the beginning to

the end.” Namunane’s conclusion on the significance of Annan’s continued involvement was equally emphatic: “That international hand must be there.”

## ASSESSING RESULTS

The Grand Coalition cabinet ceased to exist with the dissolution of parliament on January 14, 2013—a critical step required by law before new elections could take place. The new constitution eliminated the office of the prime minister, although the decision to remove the post had attracted considerable debate during deliberations. The constitution also stipulated that cabinet members not be members of parliament, and it limited the size of the incoming cabinet to 22 (the position of minister was also renamed *cabinet secretary*).

Despite having the odds stacked firmly against it, Kenya’s power-sharing cabinet contributed to restoring stability and laying the foundation for a new constitutional dispensation in several ways, although it did not meet some of the objectives the principals had spelled out in the National Accord.

Two indicators provided a mixed but somewhat positive picture of performance. The first was the trend in boycotts or disruptions of cabinet meetings, committee meetings, and dialogues. The boycotts that blocked cabinet deliberation occurred in 2009 and 2010 but did not recur in the two final years of the transitional government—a possible sign of reduced tension. Early KNDR monitoring reports found that the two sides acted as “two governments in one,” but as time passed, the reports noted that “disagreements have declined,” although discord continued throughout. Odinga’s committee systems continued to operate even when tensions ran high and the principals referred difficult problems to the dialogue mechanism.

The second indicator was the ability to complete the action items stipulated in the National Accord’s appendix. Kanyinga of South Consulting concluded that “[in] the history of Kenya, and unlike the period of the coalition government, there was no single time we have ever had such a number of successes in terms of implementation of key reforms.” Although that statement was accurate, there were also several areas in which little progress occurred—and with respect to economic growth and poverty reduction, it was hard to expect indicators to budge much during a short period.

On the positive side of the ledger, the parties completed several of the major action items pertaining to institutional reform, even if it took about two or three years to launch those changes. The most significant of the actions was undoubtedly the promulgation of a new constitution following a peaceful referendum in 2010. The KNDR monitoring team concluded that that event marked “a major turning point in Kenya’s history” and said, “The new constitution is of monumental historical significance to Kenya and even to Africa in general.”<sup>42</sup> The government of national unity did not directly

produce the draft—which political leaders and parties negotiated separately—but the ability of the Grand Coalition partners to work together colored capacity to reach agreement in those critical deliberations and the ability to move the process forward.

Other institutional reforms included the 2011 Judicial Service Commission Act, which aimed “to streamline the functioning of legal and judicial institutions,” and an additional law that authorized a system for vetting judges. Plus, under a new chief justice, the court system became more transparent. Similarly, the parties in parliament amended standing orders in order to make legislative proceedings more transparent and to create departmental oversight committees.<sup>43</sup>

Even as it succeeded in completing those action items, however, the Grand Coalition also displayed certain crucial shortcomings in reaching other Agenda Four goals: For instance, there was little progress in promoting institutional reform within the civil service or the police.<sup>44</sup> The lack of progress in those spheres was particularly alarming given the fact that an official commission of inquiry into the postelection violence (popularly known as the Waki Commission after its chairperson, Judge Philip Waki) concluded that the police were responsible for more than a third of total deaths.<sup>45</sup> During the period of power sharing, the government also failed to prosecute any of the ringleaders of the violence.<sup>46</sup> Although both Kibaki and Odinga said they supported the Waki Commission’s call for a local tribunal to prosecute perpetrators of the worst crimes, the parliament rejected the idea, and the International Criminal Court ultimately decided, in 2012, to initiate its own prosecutions.<sup>47</sup> The list of six accused included cabinet secretary Muthaura, and although the charges against him were later dropped, the court investigation ultimately forced him to resign.<sup>48</sup>

Agenda Four of the National Accord had also called for land reform to help address some of the underlying grievances that had aggravated election violence. The parliament passed legislation that the Accord mandated, but opinion polls indicated that Kenyans generally disapproved of the government’s land policies and practices.<sup>49</sup>

The Grand Coalition’s performance in “consolidating national cohesion and unity” was also mixed. Although Kenya’s Truth, Justice and Reconciliation Commission presented its final report in May 2013, it faced major criticism over its credibility. Although most Kenyans said ethnic relations had improved under the power-sharing arrangement, they were skeptical about whether the improvement would “lead to full participation by all ethnic communities in socio-economic and political life.”<sup>50</sup>

With respect to the final Agenda Four goal—to improve transparency and accountability—performance was poor. The years 2009 to 2013 saw several corruption scandals involving ministers from both sides of the coalition.<sup>51</sup> The final monitoring report on Kenya’s implementation of the Accord put it bluntly: “There are no significant achievements in the fight

against impunity.”<sup>52</sup> Corruption even directly threatened to derail the management of the cabinet in early 2010, when both Isahakia and Omondi were accused of improprieties in a maize importation scandal. The two resigned in February 2010, but both were reinstated by President Kibaki four months later after an investigation by the anticorruption commission cleared them of wrongdoing.<sup>53</sup>

Public opinion provided another way to assess performance, although it generally reflected events and circumstances outside the cabinet’s reach in addition to perceived leadership competence. According to an April 2011 survey, 58% of respondents said it was hard for the Grand Coalition to work together; 48% of that group said the reason was lack of cohesion in the government, and another 30% said it was down to political party divisions.<sup>54</sup> The same picture of skepticism held true during an October 2012 poll, when 30% of respondents said they liked nothing about the coalition government, and 63% said the country was heading in the wrong direction.<sup>55</sup> (That survey may have reflected concerns about the handling of violent attacks by al-Shabaab, an al-Qaeda affiliate in Somalia.) A subsequent survey, conducted in January 2013, was more in line with the leaders’ assessments, however, finding that 72% of respondents approved of the Grand Coalition’s performance.<sup>56</sup> (All of these surveys used multistage cluster samples and large sample sizes.)

The practices that were developed to help make the cabinet work effectively most directly affected the ability to deliberate, coordinate, and complete the Agenda Four action items, which stood as the proximate measures of performance. However, those in turn influenced broader outcomes such as violence and investment.

The KNDR monitoring project concluded by May 2009 that: “One important achievement is that political violence has generally stopped. There is calm in the areas where political violence occurred.”<sup>57</sup> The situation further stabilized during the life of the coalition. Kenya’s rank in the Global Peace Index (in which a lower score indicates a more peaceful country) improved from 133 to 118 between 2008 and 2013.<sup>58</sup> Excluding al-Shabaab-related events, deaths and displacements caused by political violence decreased.

Michael Chege, a professor at the University of Nairobi and a former United Nations Development Programme technical adviser to the government, pointed to economic indicators as further evidence of solid performance. Data from the World Bank shows that Kenya’s annual gross domestic product (GDP) growth slowed to a crawl of only 0.2% in 2008 because the country was gripped by the violence. But as the Grand Coalition slowly found its feet, economic growth accelerated despite the onset of a global recession. The average annual rate of GDP growth was 5.6% from 2009 to 2013. The figure compares favorably with the global average of 3.3% during the same period and was roughly in line with the rest of the East African Community’s pace of 5.9%.<sup>59</sup>

## REFLECTIONS

In Kenya, both internal and external procedural and technical innovations helped create cohesion and enabled the Grand Coalition to steer government, reaching agreement on policy and following through on implementation. Internally, the cabinet benefited from a focus on coordination through the system of cabinet committees as well as from delivery incentives, which had been introduced by performance contracting. But certain equally important external mechanisms complemented those systems. When political disagreements such as suspensions of ministers or appointments of important officials threatened to undermine cabinet work, external monitoring in combination with a lively press helped generate pressure to resolve the dispute, aided by back-channel communication between the principals.

In the absence of a true opposition bloc in parliament, parallel systems to keep the Grand Coalition focused on delivery were also largely external. “The formation of the coalition government meant the disappearance of the opposition,” said Karuti Kanyinga, a professor at the University of Nairobi. “The opposition that would have been required to put the government on track was not in place.” In the face of failed attempts to create a so-called Grand Opposition<sup>60</sup> in parliament, it was largely up to the media and civil society to generate pressure on the government. Caroli Omondi, a lawyer, also credited Kanyinga’s monitoring project for being “very useful in constantly creating that pressure.” The continuation of the Serena Dialogue greatly aided in that relationship.

In thinking about the applicability of the Kenyan approach to other circumstances, cabinet secretary Francis Muthaura observed that personalities made a difference. Even under auspicious circumstances, it was still up to the principals to actually reach agreement during times of crisis. President Mwai Kibaki and opposition leader Raila Odinga were important assets—“the two people who made it succeed,” Muthaura said. “There were challenges, and they could have fallen off, but anytime they were able to meet, they resolved whatever problems there [were]. The prime minister can make very strong statements, but the next day, he is willing to sit down and talk.” In turn, “The president was always very diplomatic and never shy of accommodation.”

The personal relationship between Muthaura and permanent secretary Mohamed Isahakia— Odinga’s former campaign manager appointed in charge of Odinga’s office—also contributed importantly to success. Isahakia put it plainly: “What worked for us was the fact that I knew Muthaura, and Muthaura knew me. At the end of the day there was a solid friendship there.” As a keen observer of Kenya’s power-sharing cabinet, Bernard Namunane, chief political writer at the *Daily Nation* newspaper, reached a similar conclusion: “Unless the lieutenants—those below the two [principals]—are in for the peace and for the good of the country, it is very difficult for any Grand Coalition government to work.”

It was ultimately the combination of those external mechanisms for generating pressure and reaching compromise with internal cabinet systems for coordination and implementation that enabled Kenya's power-sharing cabinet to achieve noteworthy governance successes. And although it left certain major issues unresolved, the period of the Grand Coalition brought the country back from the brink of devastation and laid a foundation with the potential to ensure a more stable future.

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