



News and Events



Market Price Tracking Survey

Hakimani is analysing the Nairobi Basic Need Basket market price tracking data collected from retail outlets in 16 informal settlements for the third quarter of 2009. The exercise will generate a quarterly report on the cost of living. The survey sought to find out how the current energy crisis affects basic consumer commodities, water provision and how slum dwellers are struggling. The research assistants from these settlements presented the data on the 29th August 2009.

Other meetings:

- Hakimani attended a workshop (August 27-28) on global warming titled: confronting the climate crisis: preparing for Copenhagen and beyond. Third world countries want a renegotiation of the Kyoto protocol. In December, world governments will be meeting in Copenhagen to sign a new treaty on global warming. Issues looked at were: The United Nations Framework Convention on Climate Change (UNFCCC) process: Road to a pro-south and pro-poor Post- Kyoto Protocol. The forum went further to critically look at some key issues arising from UNFCCC.
- Hakimani was part of a forum on confronting crisis and war held on August 29. The forum discussed the global economic crisis, neocolonialism and the current crisis in Africa because of the financial crisis. Participants unanimously agreed that the impacts of the crisis too affected African countries. Key amongst the most affected areas were; trade, exports, foreign direct investment, agriculture, overseas remittances, reduction in aid and tourism.
- Hakimani attended a working group coordinating meeting on September 7, 2009. The meeting under the umbrella of the Kenya Biodiversity Coalition was to map out strategies on how to amend the current bio-safety 2008

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APPEALS

- In the next issue of Hakimani e-Newsletter: October, we will focus on what the 2nd African Synod beginning 4th - 25th October in Rome mean for the Church in Africa. We invite your reflections.
- Deadline for E-Newsletter submissions, every last Thursday of the Month.

Act. The Act needs to be amended to address issues of indigenous seeds, patents rights and contamination arising from genetically modified organisms.

- On August 4, Hakimani met with the coordinator of Kenya Parliamentary Journalists Association to explore ways in which the two institutions could collaborate.
- A peace building and leadership training from August 31st - September 11, 2009 in Nakuru Catholic Diocese.

Marsabit workshop

From 10th – 15th August 2009 Hakimani facilitated a workshop on conflict management and resolution to 32 catechists from Marsabit Catholic Diocese. Despite the rough terrain and harsh weather conditions, the training was a success. Some participants noted that there is need for more training on conflict resolution, especially to the youths, women and elders since they have a bearing in decision-making process.

Upcoming Events

- Hakimani will facilitate a workshop on, “A just Society” for religious men and women in Nakuru from 12th - 14th of October 2009
- Association of Member Episcopal Conferences of Eastern Africa (AMECEA) has invited Hakimani to consultative forum of the second African Synod on the theme: A Shared Reflection on the *Instrumentum Laboris*. The forum will be held in

Nairobi on September 15.

- On 17th, September there will be training in Machakos on peace.
- A tentative workshop in Kisumu from September 28th – 2nd October.

Hopes for the Second African Synod

Peter Henriot, S.J.¹

When some 200-plus bishops and advisors from all over Africa gather in Rome in October, a special focus will be on how the Catholic Church can best serve the people of this continent. The Second African Synod (officially called “The Second Special Assembly for Africa of the Synod of Bishops”) meets 04 to 25 October, with the theme “The Church in Africa in Service to Reconciliation, Justice and Peace” ‘You are the Salt of the Earth...You are the Light of the World (Mt 5: 13-14)’”

Preparations

Preparations for the Synod have been going on for the past three years, with efforts of mixed success to involve a cross section of Catholics to explore the significance of the theme and its implications for theological reflection and pastoral practices. I say, “mixed success,” because in many dioceses and parishes much activity has gone on and in many others very little activity!

In 2006, a set of “Discussion Guidelines” (in Latin, *Lineamenta*) was circulated to prompt early conversations about the theme, inviting an “examination of conscience” about our life as “Family of God.” The results of these conversations were then communicated to the Vatican for preparation of the “Agenda” (*Instrumentum Laboris*) to focus the debates of the Synod. When Pope Benedict XVI visited Cameroun in May, he presented the “Agenda” with a call for reflection and prayer to engage all of us in this important event.

Personally, I am struck by the relevance of the “Agenda”

topics to the life of the Church in Africa. There is an honest reflection on the difficulties of implementation of the First African Synod (1994), with clear recognition that many parts of Africa have in the past decade been severely wracked by armed conflicts and ineffective governance. The concrete experience of the Church in relating to this challenging situation is sketched with obvious questions regarding the effectiveness of our responses.

Challenges

Of many points that can be emphasised about the significance of Synod debates and decisions, here are three that seem to me to be very important. First, is the necessary formation that needs to be done in the church social teaching (CST) across all of the Church – bishops, clergy, religious, laity. There still is too much ignorance of the content of the CST and/or reluctance to take seriously its call for prophetic stances by everyone in the Church. Many lay people, including those in important positions of government and business; simply do not know about the CST because many priests and pastoral leaders have never communicated its content and challenge in homilies, workshops, catechetical programmes, etc.

Second, priority is to put high emphasis upon promotion of the dignity of women in both Church and society. As the “Agenda” clearly notes, “women and the laity in general are not fully integrated in the Church’s structures of responsibility and the planning of her pastoral programmes.” Anti-evangelical cultural and ecclesial attitudes, patterns

and structures must be challenged head on by the Synod if any true reconciliation is to be possible

Third, priority that Synod discussion and decision must address is something which is surprisingly absent from the “Agenda.” This is the topic of environmental concern touching issues such as climate change (global warming), ecological integrity, life-style adjustments, and industrial pollution by new investors coming to the Continent (e.g., in the extractives sector). Aside from one passing reference to multinational corporations’ not paying adequate attention to the environment, this topic that is so much in the forefront of problems in Africa is not explored. Surely, the actual Synod deliberations will take up the topic!

- I.* Pete Henriot, S.J., is the Director Jesuit Centre for Theological Reflection, Lusaka, Zambia

Justice, Not Impunity

Rita Njau

Gitobu Imanyara, member of parliament for Central Imenti is one the second liberation fighters. His public curriculum vitae is quite colourful and could be envied by many human rights activists. A lawyer of long standing, and one time editor of *The Nairobi Law Monthly*, a publication that was very candid of the political dispensation, one acquainted with the detention chambers in the clamour for multi party democracy, and one not identified with any of the leading political parties, but a rather small outfit which emphasises on Uzalendo (patriotism and nationalism). He is man with a mission: seeking to end impunity in Kenya.¹

Having followed the unfolding events in Kenya after the post election violence of December 2007 to February 2008, I have remained dismayed by the lack of leadership for the common good in the country. I identify with Francis Atwoli, the Central Organisation Trade Union's (COTU) secretary General, who declared in public² that the coalition government was wanting in leadership and had rendered the institution of leadership spineless one lacking the support and/or following of the cabinet. Hon. Mutula Kilonzo, the Minister for Justice and Constitutional Affairs, in the same seating went ahead to affirm what Mr. Atwoli had declared. What Gitobu Imanyara has done with the proposed Constitution Amendment bill which details on the Special Tribunal, is to make a call for firm leadership. My reading of his position is that he appreciates we cannot talk of healing and reconciliation in Kenya, if we do not

¹ Refer to <http://www.endimpunityinkenya.org> for details on the *Statute of the Special Tribunal for Kenya*

² Refer to NTV 9pm News footage, Tuesday 31st August 2009.

take this opportunity to investigate and prosecute those responsible for crimes that have contributed to building a culture of impunity in Kenya. Whereas forgiveness is not pegged on declaration of repentance, acknowledging the past for what it has been and being seen to apply the rule of law, helps to end the circle of violence.

I have read the Imanyara Bill and have affirmed my support the proposed Special Tribunal because:

- a) It would hold the trials within the country and that way justice will be seen to be done;
- b) The experience will be more meaningful for Kenyans and if implemented as proposed, it will yield a legacy of experienced investigators and prosecutors which could serve as a deterrence to those inclined to political violence, and bring hope that institutions such as those of the judiciary can function effectively;
- c) It will prosecute a more comprehensive set of those responsible as opposed to only top officials; and,
- d) It will work faster than the International Criminal court.

When one looks at the Charles Taylor proceedings, or the Arusha Tribunal, one is compelled to conclude that the perpetrators are getting a better deal of the prosecution process as opposed to the alleged victims. A local special tribunal will not have the trappings that an international court accords to perpetrators as opposed to victims.

A closer reading of the Special tribunal reveals the following:

Section	Content	Comment
Part 11, <i>functions of the tribunal</i> , section 4.	<p>(1) The functions of the tribunal shall be to investigate, prosecute, and determine cases against persons bearing responsibility for genocide, gross violations of human rights, crimes against humanity and other crimes, which occurred in relation to the general elections held on 27/12/2007.</p> <p>(2)The tribunal shall have the power to investigate prior and subsequent events, circumstances and factors relating to the crimes and to prosecute related offences arising from and connected with the crimes.</p>	<p>The Truth, Justice, and Reconciliation Commission headed by Ambassador Kiplagat need not be given prosecutorial powers, but can remain as constituted to serve its initial goal.</p> <p>The alleged stolen vote that led to the violence as claimed by some leaders, can be subject of investigation as a prior event, circumstances or factor.</p>
Part 11, <i>Personal jurisdiction</i> , Section 6	The tribunal shall have jurisdiction over natural and artificial persons.	If found deserving of investigation and prosecution, the ECK, AG & Police Force will have case to answer (as has been recommended by the KNHRC report, Prof. Alston & Waki Commission).
Part 11, <i>Exclusive jurisdiction</i> , section 7(2)	The tribunal shall have primacy over the courts at any stage of the proceedings of a court for a crime that may be prosecuted under this statute.	During post election violence in Kisumu, armed police officers were caught on live footage shooting a fleeing civilian. The police spokesman stated that the live shooting was an extract from a <i>Rambo</i> movie. This matter was brought to court and to date has not reached a conclusive end. It will be effective to have the tribunal take over the case.

<p>Part 11, <i>Individual criminal responsibility</i>, section 11(1)</p>	<p>A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime, should be individually responsible for the crime.</p>	<p>This provision ensures that persons who took part in the post election violence are brought to book and cannot justify their actions as Hon. W. Ruto¹ has publicly declared.</p>
<p>Section 11(3) (1)&(11)</p>	<p>This section shall apply equally to all persona without any distinction based on official capacity and shall in no case exempt a person from criminal responsibility nor shall it in and of itself constitute a ground for reduction of sentence;</p> <p>Immunities or special procedural rules which may attach to the official capacity of a person whether under national or international law shall not bar the tribunal from exercising jurisdiction over such a person with respect to the Vienna convention.</p>	<p>These provisions have led for a call that the executive risks being subjected to the Tribunal yet that arm of the government has traditionally been above the law. If these provisions are reviewed or deleted as proposed by Hons. Kiraitu & Kalonzo, the message sent out to citizens will be that the executive can get away with impunity. This will be a fallacy for the Kibaki regime which initially came to power on a zero tolerance to corruption read impunity platform and it leads to speculation as to whether the executive is guilty of impunity hence the hesitancy to face the law.</p>
<p>Part 11, Section 11(4)</p>	<p>The fact that any of the acts under the interpretation section hereinabove was committed by a subordinate does not relieve his superior of criminal responsibility if the superior knew or had reason to know, or ought to have known, or consciously disregarded information which clearly indicated that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts.</p>	<p>It will be interesting to watch how implementation of this provision will play out in light of the allegations cast on the police force and administration police while on duty to bring public order during the post election violence.</p> <p>An interesting interpretation to follow will be on political parties which called for mass action but failed to ensure that their followers did not cause harm to life and property.</p>

<p>Part 11, <i>Composition of the trial chamber,</i> section 13(1)- (3)</p>	<p>The trial chamber shall consist of the chairperson of the trial chamber and two other judges.</p> <p>The chairperson of the trial chamber shall be a citizen of Kenya and shall be appointed by the president with the concurrence of the prime minister.</p> <p>The other two judges of the trial chamber shall be non-citizens and shall be appointed by the president, with the concurrence of the prime minister, from a list of persons nominated by the Panel of Eminent African Personalities.</p>	<p>This provision is tactful in ensuring that the trial chambers do not suffer political interference as has been alleged of the Kenyan judiciary practice. Going by the precedent set by the Waki Commission, which had two foreigners, and one Kenyan as chair, there is hope that the trial chambers of the tribunal will deliver services effectively. (The same will apply to the Appeal Chambers as its composition is similar to that of the trial chambers, Part 11, Section 14 (1- 4)).</p>
<p>Part 11, The Prosecutor, Section 27(5)(b)& (c)</p>	<p>In performance of his functions under this statute, the prosecutor shall, not seek or receive instructions from any person or authority; and</p> <p>Not be subject to the control or direction of any person or authority.</p>	<p>This renders <i>Nolle prosequi</i> often used by the AG through the office of the public prosecutor in politically sensitive matters, outdated.</p>

On a sad note which goes to depict the death of institutions in Kenya: “A water shortage has led to the closure of the maternity wing at Kisanana Health Centre in Koibatek district. The hospital has been referring pregnant women to hospitals in Nakuru, Mogotio and Eldama Ravine for delivery after its water pump broke down three months ago. However, Koibatek District Medical Officer of health said he was not aware the pump had broken down and promised to investigate the matter.”³ Given one of the millennium development goals is to ensure safe motherhood and reduce maternity mortality rates, that the country is presently engaged in a nation wide campaign to reduce child deliveries at home, that women in rural areas often reach to hospitals when the traditional birth attendant discerns there is a medical complication beyond her expertise and/or tools available, the cost of living is already burdensome without having to worry about travelling to a long distant hospital for confinement, it becomes evident that the grand coalition government despite having two ministries dealing with health related matters, is not committed to 52% of its population who risk their lives as they seek to propagate future citizens. Who is the MP for this area and what is she/he doing?

¹ NTV 9pm News.

³ Daily Nation, Tuesday 1st September 2009.

South Sudan Education Budget Cut Deterrence to Progress, says JRS

Zachariah Khadudu

As the world marks the International Literacy Day on September 8, 2009, an appeal has been made to the Government of Southern Sudan (GoSS) to reconsider its decision to slash education budget effected in the last three years. In a press release Jesuit Refugee Service (JRS) a Catholic organisation serving refugees in 57 countries worldwide appealed to GoSS to allocate sufficient resources to protect and improve upon the achievements realised to date.

The press statements signed by JRS Regional Communications Officer Angelica Mendes stated that the decision by GoSS to cut the education budget by more than 25 percent (\$134m to \$ 100 m) is disappointing given the remarkable improvements in enrolment rates since the 2005 peace agreement. According to JRS, the budget cuts are likely to adversely affect the quality of education, which now lies at literacy rate of 20 percent and 10 percent among women.

“Education is the key to development, it enhances human dignity, helping people reach their full potential, improve their quality of life and become politically mature citizens” Fr. Frido Pflueger SJ JRS/EA Director is quoted as saying. “These are all qualities Southern Sudan badly needs for a stable future. The GoSS, the international community and aid agencies have to join to make this a reality for the people of Southern Sudan” Fr. Pflueger added.

JRS statement also resounded on the UNICEF report of 2008 that recorded the attendance rates in Southern Sudan as having tripled in the last four years. Considered the lowest rates in the world in 2005 with only 343,000, the numbers have grown in bounds to more than 1.3 million though the attendance of the girls continue to remain much lower than that of the boys the statement read. The low attendance number of girls is attributed to among other issues, economic hardships and socio-cultural practises like early marriages.

The statement also highlights the shortage of trained teachers as a major challenge to education with only seven percent of primary school teachers having formal training, 48 Percent having participated in in-service training and the rest having no training. JRS Southern Sudan Director Andre Atsu Agbogon says JRS trained three quarters of the teachers in the border county of Kajo Keji since 2001 and added that more teachers need to be recruited and paid salaries if student –teacher ratio, and staff motivation is to be enhanced.

JRS recently offered 150 marginalised secondary school students an examination preparation course in Yei and believes investment in teachers and students pays, a view that seem to be shared by the beneficiaries of the course participants like John Wani who says “This was a turning point for me as I gained essential knowledge for my final exams. In two weeks, none of the teachers missed a lesson,

unlike in my school where sometimes we spend the whole day doing nothing.”

Jesuit Refugee Services consists of a staff of lay people, Jesuits, and other religious who work to meet the educational, health, social and other needs. In Eastern Africa the organization works in all the five countries serving over 80,000 refugees and forcibly displaced persons. JRS currently supports 78 primary and 16 secondary schools with more than 40,000 students. The organization also runs affirmative action, peace education and in-service teacher training programmes in three border counties. JRS serves refugees and displaced persons of all races, creeds and cultures.

APPEALS

Hakimani Publications

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- Interested in contributing a reflection on a social justice issue in your locale in Eastern Africa?
- Are you organising or have attended an event seeking to promote social justice in the region?
- Are you involved in a campaign for transformation of unjust social structures?

Email us: editor@jesuithakimani.org

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