

**NOTES OF THE CONSTITUTION OF KENYA REVIEW COMMISSION (CKRC) MEETING HELD AT COUNTY HALL ON 16<sup>TH</sup> JULY, 2001 TO LAUNCH THE STRATEGY PLAN**

**PRESENT**

1. Prof. Yash Pal Ghai - Chairperson
2. Com. Dr. Oki Ooko Ombaka - 1<sup>st</sup> Vice Chairperson
3. Com. Prof. A. I Salim - Vice Chairperson
4. Com. Abida Ali-Aroni - Vice Chairperson
5. Com. Nancy Baraza
6. Com. Kavetsa Adagala
7. Com. Hon. Phoebe Asiyu
8. Com. ZeinAbubakar Abubakar
9. Com. Ahmed I. Hassan
10. Com. Salome W. Muigai
11. Com. Dr. Wanjiku Kabira
12. Com. Dr. K. Mosonik arap Korir
13. Com. Domiziano Ratanya
14. Com. Alice Yano
15. Com. John M. Kangu
16. Com. Riunga Raiji
17. Com. Ibrahim Lethome Asman
18. Com. Isaac Lenaola
19. Com. Prof. H.W.O. Okoth-Ogendo
20. Com. Dr. M. A. Swazuri
21. Com. Zablon Ayonga
22. Com. Charles Maranga Bagwasi
23. Com. Bishop Kariuki Njoroge
24. Com. Githu Muigai
25. Com. Abdirizak Arale Nunow
26. Com. Amos Wako
27. Com. Keriako Tobiko
28. Mr. Paul Musili Wambua
29. Mr. Arthur Okoth-Owiro - Commission Secretary

Professor Ghai opened the meeting by welcoming those present to the meeting to launch the Commission's Strategic Plan which sets out the tasks of the Commission, methods by which it is proposed to discharge those tasks, organs of the Commission responsible for the different tasks, a timetable for the completion of the Commission's work and an indication of the resources necessary for the discharge of the entire review process. He said the major responsibility for the preparation of the Strategic Plan has been left to the first Vice-Person, Dr. Ombaka, and he commended him for the work he has put into the preparation of the document. He said the document had been discussed by the Commission and endorsed unanimously and invited Dr. Ombaka to give a brief overview on the document.

Dr. Ombaka said that as the document would be distributed he would not go through the whole document. He said there were one or two typographical errors but these would be corrected.

He said the Plan was a road map for the entire constitution review process and it presented how the Commission was going to organise its work, the type of activities it is going to engage in, the calendar for those events and resources that would be needed to accomplish the tasks. He said there has been some debate on the time frame and how the Commission intends to embark on its task and by what time it proposes to finish the task. The Act gives 24 months to accomplish the task from October 2000 to October 2002. He said that from a technical and professional angle the Commission is convinced that it can, and is able to embark and finish the task within that time frame. He said that given the support the Commission is asking for from Stakeholders and by all concerned and availability of resources it was asking for, it was confident that it could produce a complete and comprehensive review of the constitution, have a report and a new constitution for enactment by June/July next year.

He said the Plan discusses ten inter-related components on how the Commission intends to proceed with its task. He said the first one was the operationalisation of the Commissioners who are the key element in the Commission's work and are the policy making organ for the review process. The Commission intends to manage its work by regular Plenary sessions supported by working committees. Through the working committees the Commission proposes to engage both local and international experts in enhancing its capacity. He said the Commission was beginning provincial visits to introduce itself to the local communities and map out the specific support infrastructures it is going to require at the local level to accomplish its task.

He said the second component is the national secretariat and said the Commission intends to set up its headquarters in Nairobi which is going to be the centre of the entire process. He said the Commission will engage full time professional staff, part-time staff, consultants, people seconded from the public and private sector and of course members of the public who wish to consult the Commission. He said the outreach of this nerve centre would be at the district level.

The third component is the district coordinating unit. He said the Commission will have a presence at district level headed by a district coordinator and his office will have the archives through which written submission will be made, through which coordination of district and constituency activities will be made, through which there will be a linking computer network for access to the Commission website and also for dissemination of information. It will also serve the civic education networks that will help the Commission in its work to disseminate information at the local level.

He said there will also be workshops and seminars the Commission will start organising from the end of July, which will target a wide range of people starting with the Commissioners themselves so that they will be able to develop some consensus as Commissioners who have been given this mandate to develop common understanding of some of the concepts that they have to deal with and what their views about certain constitutional concepts are. The workshops would also engage public debate with policy makers and international experts to give comparative angles to constitution making. Through the workshops also the Commission hoped to generate material that will be distributed widely and which can be of use of civic education providers in engaging public debate.

He said the Commission also will conduct civic education. He said the law requires the Commission to conduct, promote and

facilitate civic education and the Commission intends to collaborate closely with civic education providers. He said the Commission viewed itself not as an advocacy group but its basic interest is to generate sufficient information so that Kenyans can intelligibly contribute to the constitution making process.

He said the Act makes it clear that the Commission has to visit every constituency in the Republic to collect views and opinions of Kenyans at the local level. He said to save time the Commission was envisaging dividing itself in panels so that they can cover every constituency. He said that at that time sufficient civic education will have been conducted at the local level, the district coordinating unit will be in place, enough debate will have taken place and the work of the Commission at that level will be to harvest the views, engaging in interviews and getting an idea of the opinions of Kenyans on the Kenya they want.

He said the next phase will be for the Commission to collate and analyse the views and come up with a report and a draft constitution. He said the Commission would write the report using its own expertise, using the wealth of data gathered during constituency visits and enriched by the expert input by local and international experts. He said after this the law requires the Commission to engage in public national debate and the next phase would be the national debate of that report. He said the report would indicate to Kenyans whether the Commission has taken their views into consideration and the mass media, electronic and print media and civic education groups will be encouraged to take this report to every part of the country. He said the next phase will be the national conference. He said the most important part of the review is not the Commission but the national conference, which is the forum where Kenyans through elected delegates and representatives will come together at some place for a few weeks and debate and negotiate the new constitution. He said it is hoped that by the end of that conference there will be a consensus on what the new constitution will be. He said that if there is a consensus at that stage a final draft will be written and the report and an act for a Bill to amend the constitution will be passed to the Attorney General who will table the document in Parliament for final approval.

He said that in the event that the national conference is unable to resolve some issues, the Act envisages a deadlock breaking mechanism in terms of a national referendum and the Commission will do a final report based on the results of the referendum for submission to Parliament through the Attorney General. He said that the timely achievement of the objectives set out in the plan assume that the Commission will have all the resources it needs to accomplish the task. He pointed out that in drawing up the budget the Commission has been frugal as it is very conscious of the economic situation of the country but that this is a very important undertaking and Kenyans have to invest in the future of their country. He said if all the resources are available the task is not impossible, lack of resources may delay the timeframe or stop the Commission from doing the job as thoroughly as it would wish.

To a suggestion that some complex issues like majimbo and land problems may delay the process, the Chairperson said that people of Kenya have been thinking about these issues for a long time and they have waited long for this process and the Commission hopes that there will be enough time to discuss these issues and keep to the timetable prescribed by Parliament. If there was need for more time, the Commission would request for an extension.

Dr. Ombaka, in answer to a question, said that there will be a detailed budget showing how much each activity has costed. He said the Commission will need 4.5 billion shillings which excludes an estimated 1.2 billion shillings in terms of non-monetary support for the process by Kenyans. The Treasury has committed about 2.2 million shillings to the process but there was need to raise funds.

The Chairperson was requested to clear the air about the difference between himself and the Commission Secretary but he said he would not do that at that particular stage.

Prof. Ghai said that the legislation requires the Commission to undertake a comprehensive review and it will be doing that.

He thanked those present and assured them there will be many exchanges and that the public aspect of the review will be enacted at the start of the provincial visits. He reminded the political parties and religious groups that they should adhere to the code of conduct which requires all parties to respect the independence of the Commission and the Commissioners. He pleaded with these groups to let the Commission get on with its job which is very specific and which is to be conducted in the first phase of the work of the review process. He said the Commission's work is to make recommendations with the interest of the nation uppermost in its mind and once that is done then the negotiating process will start through the constitution conference. He said for the whole process to proceed well and result in a good constitution, the Commission needs to be assured that there is no interference with the Commission or the individual Commissioners. The Commissioners have taken an oath promising to be independent and not to take instructions from anyone. He said to proceed well, the Commission needs to be given time and independence.

The meeting closed at 4.00 p.m.