

CONSTITUTION OF KENYA REVIEW COMMISSION

NOTES ON NYANZA PROVINCE

PROVINCIAL VISIT – 24.07.01

CONSULTATIVE MEETING AT KISUMU TOWN HALL

Prof. Yash Pal Ghai	-	Chairperson
Prof. A. Idha Salim	-	1 st Vice-Chairperson
Mrs. Abida Ali-Aroni	-	Vice-Chairperson
Prof. H.W.O. Okoth-Ogendo	-	“
Ms. Nancy Baraza	-	“
Mr. Ahamed I. Hassan	-	“
Dr. M.A. Swazuri	-	“
Ms. Kavetsa Adagala	-	“
Hon. Mrs. Phoebe Asiyo	-	“
Mr. Domiziano Ratanya	-	“
Ms. Salome Wairimu Muigai	-	“
Mr. Isaac Lenaola	-	“
Hon. Amos Wako	-	Ex-Officio
Pastor Zablun Ayonga	-	Commissioner
Dr. Mosonik arap Korir	-	“
Mr. John Mutakha Kangu	-	“
Dr. Abdirizak Arale Nunow	-	“
Mr. Abubakar Zein Abubakar	-	“
Mr. Ibrahim Lethome Asman	-	“
Mr. Riunga Raiji	-	“
Bishop Kariuki Njoroge	-	“
Mr. Paul M. Wambua	-	“
Dr. Charles Maranga	-	“
Mrs. Alice Yano	-	“
Mr. Arthur Okoth-Owiro	-	Commission Secretary

ABSENT WITH APOLOGY:

Dr. Oki Ooko Ombaka	-	Vice-Chairperson
Dr. Wanjiku Kabira	-	Commissioner
Mr. Githu Muigai	-	“
Mr. Keriako Tobiko	-	“

Meeting started at 10.00 a.m. with Christian and Muslim prayers.

Com. Maranga invited Prof. Ghai to make his opening remarks.

Prof. Ghai said the Commission was happy to be in Kisumu as part of the its visits to all provincial capitals. He said the purpose of the visits was to meet with the people to tell them about the mandate that Parliament has given to the Commission, its responsibility in the review process and to give the public some idea of the process and the procedures that have been

formulated. He also said the Commission had to come to hear the views of the public on the process and talk to religious, professional and social groups that have an interest in providing civic education or becoming involved in the review process. He said the Commission would also talk with provincial administration on its needs like providing documentation centres, disseminating information about the Commission's work and to set up mechanisms for consultation with the people.

Prof. Ghai said the Legislation requires the Commission to visit every constituency in the country seeking public opinion and it has to establish a constitutional forum in every constituency which will be the basis for discussion among the constituents about the review and their ideas about the new constitution. He the said aspect of the Commission's work is very important and the Commission would like the people's idea on how to organise these forums and how information can be disseminated. The Commission also wanted to know how to make available the documentation that it produces and the documentation that is given to the Commission by other people in the country. He said the Commission would like to share with all Kenyans the information that it gathers.

Prof. Ghai said the Commission wants to establish contact and begin to think how it can discharge its obligations. He said after the Commission has listened to the people, it will take the information back to Nairobi and after considering all the information received, it will finalise the programme of civic education and consultation with the people. He said the Commission will undertake longer visits later in the year when it visits every constituency after there has been opportunity for people to become familiar with the Commission's process and terms of reference.

Prof. Ghai said the Commission operates under Review Act and its responsibilities include stimulating public awareness of constitution issues and discussion of those issues, consult with the people on the issues and on the basis of the recommendations that people make to the Commission, it will make its own report and write the first draft of the constitution. He emphasised the extreme importance of the participation of the people in the review process. He said that this is the first time that Kenyans have been given an opportunity to shape their own constitution. He said a people-driven constitution means that people must get involved at every stage of the process of review and therefore the task of civic education and consultation are extremely important. He urged people to become engaged in the process and participate fully in different ways in providing civic education and as recipients of civic education, in forming discussion groups among themselves and subsequently debating the Commission's recommendation. He said this is the only way that Kenya will get a good constitution. He said that although the responsibility of the Commission very heavy, the responsibility of the people is even greater because the Commission can only make recommendations in its final report on the basis of what the people say. He therefore said the people must tell the Commissioners what they are thinking and their hopes for the country. If they do not do this, their views will not be reflected in the constitution and it will be a failure on their part. He said the process will go on for many months but that the people must stay engaged throughout the process and they must make sure that the Commission does not deviate from the path that Parliament has laid down for it.

Prof. Ghai said the Commission is operating under The Review Act which has been amended recently when the two processes of review, one by the People's Commission of Kenya and the other by the statutory commission were merged. He apologised that Dr. Ombaka who was the Chair of PCK and now Vice-Chair of the Review Commission was unable to come to Kisumu as he was attending some urgent business of the Commission in Nairobi but that he had sent his greetings and would visit them

soon.

Prof. Ghai said there are several organs of review although the people had only heard about the Commission through the media.

He however said the Commission is only one part of several institutions responsible for the review of the constitution. He said apart from the Commission there has to be constituency forums in every constituency, then there will be a national constitution conference. He said this will be a body of about 500 people, including all Members of Parliament, three representatives from every district, delegates from religious groups, political parties, professional organisations, the youth, women groups, people with disabilities, NGO's etc. The Commissioners will be members but they will not have a vote. He said this will be the most representative body ever formed in Kenya for the purpose of constitution making and it will be the responsibility of this Conference to make key decisions about the new constitution.

He said the other organ of the review is a referendum which means the people. If the constitutional conference is unable to reach consensus on all the aspects of the new constitution then the outstanding points will be referred to the people directly for their decision when every registered voter will have a right to choose between the options offered.

He said the final organ of review is Parliament. He said if the constitutional conference reaches agreement the draft bill will go directly to Parliament through the Attorney General and it will be their responsibility to enact the constitution.

Prof. Ghai said that throughout the process of review the emphasis is on consensus and so wherever decisions have to be made be it in the Commission or constitutional conference or Parliament, people must try to discuss their differences, listen to others and try to bridge those differences so that everybody supports the final product. He said the constitution is fundamental to the country as all the laws spring from it, it spreads out the framework of the government, the way in which government policy is made, the way in which differences among the people are resolved and it contains values by which people want to live. He said unless there is a constitution to which most of the people are committed, it will not serve all these functions. He therefore said the commitment of the people to the final product is very important to the success of the process and effectiveness of the product that comes from it. He said that throughout the emphasis is on consensus and even the Commission has to work through consensus and he hoped that throughout the process decisions would be reached by consensus. He said that some of the issues to be discussed at the meeting could be controversial but that people should not insult each other or shout at each other. He said people should listen with respect to different points of view, persuade each other by voice of reason and be willing to make compromise. He said the whole purpose of the process of review is to bring people closer together.

Prof. Ghai said the process starts with meetings like the one in session where people become familiar with the mandate of the Commission and continues until a constitution is made.

He said the Commission is independent and it was appointed because the President and the Parliament thought the Commissioners have the capacity, ability and knowledge to make recommendations on the constitution. He said the Commission will only focus on what is best for the nation and try to create national unity while standing above any favouritism. The Commission is not supposed to work with any Minister, any politician or religious leaders but it is supposed to be independent and use its own judgement.

He said once the Commission will try to translate the report into as many languages as possible and use the media to disseminate its recommendations. After that it has to allow 2 months for the people to study the report and then hold meetings

to get feedback from the people and this together with the Commission recommendations will go to the national constitutional conference which will be the decision making body. Although everyone is focusing on the Commission at the moment, once it has written its report the responsibility for the actual decisions passes on to the national constitution and the Commission becomes a Secretariat to that conference. The Commission's work will be to make sure that decisions of the conference are reduced to a draft constitution. He said at every stage of the process there are different groups in the driving seat.

Prof. Ghai said what is to be the constitution is yet to be determined and it is hard to say what the final product will be but that the Review Act gives instructions on what should be among the fundamental principles of the constitution and all the organs of the constitution are required to make sure that the new constitution serves certain purposes and upholds certain values. He said the organs are required to make a constitution that enhances national unity and strengthens the integrity of the Republic, which protects the country from internal and external enemies. He said within that it has to be a democratic constitution with full participation of the people, uphold the rule of law and the constitution itself has to be fundamental and supreme law. The constitution has to ensure that the rights of the people are protected, that social, ethnic and religious diversities are respected and maintained. He said Kenyans have many identities like Luos, Catholics, Muslims, Hindus, different identities through professions and languages. All these must be protected under the constitution as well as protecting minority groups. Prof. Ghai said first and foremost Kenyans are citizens of this country with equal rights and obligations and that must be guarded. He said it is within that that differences of language, traditions, religions must be accommodated in a respectful manner so that nobody feels alienated.

He said the Commission has to recommend a constitution that meets the basic needs of all Kenyans and make sure that every Kenyan has food, shelter, children can go to school and there is access to medicine. It has to try to find mechanism to distribute resources to make sure that every Kenyan basic needs are met. There also has to be mechanism for the re-distribution of power so that there is not too much power concentrated in Nairobi and that more power should come to provinces, districts, divisions, locations or even sub-locations: it could even be decided that more should be given to local authorities.

Prof. Ghai said the constitution has to be democratic but that there are many ways of being democratic. He said India has a parliamentary system which is democratic, USA has a presidential system which is democratic and Switzerland has a power sharing system which is democratic and Kenya has to decide which democratic system is good for her people. He said although all these fundamental principles are laid down in the Act, how they are implemented is very important. He said that these goals have always been in the Review Act and the principles were agreed in Safari Park where all groups were represented.

He said the meeting was to discuss how to take this process forward and the first way to do this is to conduct civic education. The Review Act says that the Constitution of Kenya Review Commission must conduct, facilitate and promote civic education with the purpose of stimulating public awareness and debate about constitutional issues. He said civic education covers many aspects and it is a life long process. He said there are many institutions that are involved in civic education such as churches,

mosques, temples, institutions and schools. He said civic education is even learnt from parents and elders. He said in the case of the constitution the scope and role of civic education are limited to facilitate the review process to enable the participation of the people in the process. He said the more institutions get involved in the process, the better the decision should be. He said the Commission has a choice whether to conduct civic education itself or to do it in partnership with other institutions. He said since the emphasis of the whole process is to be inclusive, participatory and democratic, the Commission believes it can involve more people and groups if it shares with them the responsibility of civic education. He said there was a 2-day workshop in Mbagathi with different groups to discuss this aspect and in Nyeri and Nakuru civic education has been the primary point of discussion. He said the Commission has a statutory responsibility to see that all groups in Kenya have an opportunity of civic education however remote they may be. The Commission also has the responsibility to ensure that all constitutional issues are included in the curriculum of civic education which will include mention of the present constitution.

He said the Commission has decided to have a common, national curriculum for every group and copies of this would be given out. He said the Commission required providers for civic education. It had to ensure that civic education is provided in an impartial, objective manner and that it should not be used as political propaganda. A code of conduct is being developed which all civic education providers have to abide by in order to remain in partnership with the Commission. Within the framework of that curriculum the Commission wants to encourage groups that have capacity and are willing to become involved.

He said the Commission also wanted to discuss with the participants how to set up documentation centres because the Legislation requires that they be set up in every district where information about the Commission's work can be obtained especially for people who have no access to TV or any other media. He said there have been requests for documentation centres to be taken down to locational level and the Commission will find out how the provincial administration or schools can help in establishing these centres at this level.

He said that the Commission also has to set up constituency forums in every constituency and he asked participants to give their ideas as to how this can be done. He said the Commission will give whatever assistance it can but that the setting up of these forums is the people's responsibility because the Commission does not want to impose itself on the different communities. He said the Commission will produce a number of documents by way of material to be sent to the different centres telling the people what the options are, what the strategies are, what other countries have done and so on. Many people have said that they do not even know what the present constitution says and the Commission is producing a constitution document in simple language that will shortly be distributed widely.

Prof. Ghai said according to the timetable laid down the whole process has to be completed by September 2002. The Commission has an obligation to complete its work but that Parliament has also said that if the work is not completed by this time, the Commission can ask for extension although they do not give a guarantee that they will grant the request. He said the next question is what happens if the Commission has not completed its work by election time next year, should the elections go ahead while the Commission continues with its work or should there be an interim constitution which is different from minimum changes. He said in South Africa they decided on an interim constitution and agreed that after elections Parliament would continue its work. He said the final SA constitution was very similar to the interim constitution. He said in Embu and Nyeri a government of national unity had been suggested. Prof. Ghai said there are many possibilities but the Commission was not

considering them seriously because it believed it will complete its work within the stipulated time. He said for time being the Commission wanted ideas on civic education and that it had come to listen to the people.

He then invited Com. Abida Ali-Aroni to make a brief translation of his remarks in Kiswahili.

Com. Maranga explained the next part of the forum and recognised senior government officials, i.e. Hon. Sam Ogeri, Hon. Dr. Oburru, His Worship the Mayor of Kisumu, Mayors of other municipalities, he also recognised the religious organisations, NGO's, CBO's, women groups, professional organisations and universities. He noted that over 90 groups had registered and said views would be received from each of the 12 districts in Nyanza first and after that from the various profession groups and special interest groups that were represented. At this point he recognised the presence of the Provincial Commission. He said the order of presentation would be Kisumu, Nyando, Siaya, Bondo, Kisii, Gucha, Nyamira, Kuria, Suba, Homa Bay, Rachuonyo, Migori. He explained that the forum was to hear views on civic education, documentation centres and constituency forums and other views will be collected when the Commission returns later on constituency visits.

Asenath representing a Kisumu NGO said entry point of civic education should be district level, then divisional level down to the village level. She said people in divisions should be trained first and then people in locations and thus the awareness will go down to villages so that it can reach the youth and the disabled and slum areas should not be forgotten. This education should be in local languages and every remote area should be included.

Duncan George Njumba of Kisumu said civic education should be delegated to CBO's and NGO's but not to provincial administration.

Documentation centres should be at locational level so that everybody has access.

On constituency forums he said these should compose of women in the area, youth organisation, religious bodies and disabled people but that politicians should not be included.

He said the Commission should try and finish its task within the stipulated time but if it is not possible, elections should go ahead with minimum amendments but that the life of Parliament should not be extended.

Ogembe John a Kisumu lawyer said although there are churches, NGO's and CBO's, Kenyans know some of these are foreign and that civic education should be done by teachers who are trained in dissemination of information.

He said documentation centres should be at divisional level in order to reach everybody.

He said constituency forums should not be headed by local MP's but should be conducted by CBO's at sub-location level.

Hesbon Ouma of Nyando working with a women's organisation which is a member of Kenya Women Political Caucus said civic education should be done by NGO's, CBO's, churches and the provincial administration and a way found to harmonise the work.

Wilson Akoth Muga of Nyando said the Commission has a very difficult task and said Kenya has enjoyed peace since independence. He said people are as united as they were when Kenyatta was president. He said he is 84 years old and he was asking the Commission to work very hard to save Kenya from chaos. He said it is only federal government that will save Kenya from chaos.

Mabel Kisorio of Nyando said civic education should be left to NGO's and CBO's and it should be understood that civic education is not politics. She said there is material in Kiswahili that is used by various organisations for civic education and that this process should be continuous.

Grace Ogot of Siaya said appreciated that there are women in the Commission. She said civic education should be at grassroots level and if NGO's do this job they should be NGO's in the field who understand the language, aspirations and dreams of the people. She some women had told her that if they can memorise the Bible they can also do the same with the constitution if they get the right teaching in their own language. She said civic education should also be done by both men and women because in some areas women will do a better job. The people used should be local people.

Oburu Moses of Siaya said civic education should be done by a very representative organ, devoid of manipulation, at constituency level and suggested religious groups, provincial administration, local councils , youth groups, women groups, professional bodies like KNUT and KUPPET, members of Parliament, CBO's and NGO's. There should be a forum to elect representatives from these bodies.

Fr. Okolla of Alanalla (?) Catholic Mission, Nyando said the Catholic church has done civic education over the last decade and this programme has benefited not only Catholics but people of other faiths at the grassroots. He said civic education should be done by religious institutions and CBO's who have capacity and the necessary infrastructure. He said the Commission should try to finish its work in the stipulated period. He said there should be local level coordinators rather than district coordinators and a district coordination committee should be formed comprising representatives of major groups, constituency coordinator, local MP, the youth and the women.

Olima (?) of Bondo said documentation centres should be at divisional level.

Margaret Otieno Gombe of Bondo said that small business women and men are being taxed a lot of money. She said women are not taken seriously when people talk about civic education and women should be considered in this review. She also said when Prof. Ghai was talking people were quiet but when Com. Abida was translating there was a lot of noise.

Fr. Oluoch (?) of Bondo said civic education should carried out by trained personnel within the church and CBO's. He said the contents should be clear and it should be at divisional level and there should be tenure of security.

Documentation centres should be at divisional level and constituency forums should be composed of politicians, religious leaders and community leaders within the constituency.

Hon. Dr. Oburu, MP for Bondo said in the civic education there should be mobilisation of people at grassroots level and use not only provincial administration but also politicians, councillors and empower community development officers on the ground as these are people who are trained in mobilising local people. These people are not utilised by the Government and they are not paid because they are supposed to be paid by county councils who are broke. He said those groups already carrying out civic education should not be used at the grassroots level because they are partisan but that local NGO's should do this work in the local language.

On documentation centres, he said people should not be confined to administrative boundaries like divisions and locations and that institutions on the ground should be used, documents should be made available through churches, chief's and sub-chief's offices, schools and all institutions that are accessible as possible by the people.

Mary Kemunto Ratemo of Kisii said civic education should be carried at grassroots level. She chiefs will mobilise the people and the people who know how can come and teach. She said Kenyans do not understand the constitution and they should be taught so that they know what to amend.

She said documentation centres should be at every location, sub-location, district and up to the higher offices.

Fr. Christopher Oira of Catholic Diocese of Kisii said it was a blessing to have the Commissioner in Kisumu to meet the people. He said the Diocese of Kisii, through the Justice and Peace Commission, is grateful to the to the Commission for giving them an opportunity to air their views. He asked what will happen if the Commission does not finish its work on time, what will be position of the Commission before and after elections, who will select the 3 representatives of the national conference, whether it is possible to have constituency centres at constituency level, what are the modalities of civic education in terms of curriculum, how and when will it be conducted. He said his group would like to participate in the process and that there are representatives at constituency level, district level, provincial meetings, national constitutional conferences. He recommended that constituency forums should be constituency level and representatives drawn from locations, churches, political parties, constituency based NGO's, youth, men, women, local councillors and MP's. He suggested each district should have a representative at the national constituency conference.

Elishiba Makori of Maendeleo ya Wanawake Kisii said this organisation should be strengthened to help people's efforts in participation in constitution making. It should also be involved in collecting proposals at grassroots level and be involved in strengthening medical care and children affair. It can also help in distributing material through churches, social groups and coordinating the activities of the process at district level. It should also be involved in drawing up a programme to guide activities with regard to time frame.

Hon. Sam Ogeri congratulated the Commission for being appointed. He said the people are there because they want to discuss a future constitution and to involve the cultural, religious, geographical and political diversities and look for a bottom line in order to ensure a peaceful Kenya. He said it is important that in every process, people must be involved from the grassroots.

He said information to make the process a success is critical and he will not like to see a process that is hijacked by a few individuals who are better placed in terms of information dissemination, much more literate and informed groups, at the expense of the poor people. He said civic education should be delivered by institutions around the people in a particular area. Total mobilisation of these institutions is required and provincial administration, the local MP, civic leaders and churches should come together to work in review process.

He said information is a key factor in any constitution making process so that people can understand what they are expected to do in order to be productive. He said documentation should be available at grassroots and contain issues that are relevant to a particular area. He said all groups should agree on resource sharing. He said some civic educators are highly politicised and partisan and they should not be allowed to pollute the minds of the people who would otherwise make meaningful contribution.

Ruth Mwamotaro of Gucha working with the Federation of Woman Group and League of Kenya Women Voters welcomed the Commission to Nyanza Province and hoped that this will help them. She said civic education should be from the top to the grassroots level and teachers should be from the local area. Men, women, youth, religious leaders should be used. Assistant chiefs, chiefs, DO's and DC's should also be used to mobilise the people. Material should be given to the people.

Peter Osano of the Kenya National Association for the Deaf said that deaf persons always miss out because of language because there are no interpreters. He said there should be interpreters wherever civic education is being done and that notice of meetings should be given in advance so that arrangements can be made.

Evans Oganda with Nyanza Disability Network said civic education should be conducive to people with disabilities and that there should be ramps for people with mobility disability, guides for the visually impaired, interpreters for the deaf in sign language. This will make people with disabilities participate actively in this process. He said views should be collected from people with disabilities by churches and NGO's. He said civic education in Kenya has always been characterized with political violence and this poses a problem for people with disabilities and they would like to be assured of security in this process. He said the disabled would like to see a new constitution put in place before the next general elections, it should be comprehensive, written in a language that is understood by all and should also be in Braille.

C. Nyamato of Nyamira from Federation of Women Group said civic education should be carried out by churches and the civil society. It should be inclusive and address all social and cultural aspects, recognise the language used in a local area, be politically neutral, gender sensitive and should be continuous even after the constitution is made. She said it should be done at all levels in order to reach all the people. It should also be done in an enabling environment and provincial administration should be cooperative during the process.

She said documentation centres should be in provincial offices, churches, offices of all social groups through which documents can be presented and received.

Olang of Nyamira said there are many organisations trying to disseminate information but that there was no curriculum and they do not know whether they are doing the right thing. He said trainers should be trained according to the curriculum so that then they can teach the community. He said civic education should be conducted by local people. He said recruiting agents should be representative according to Provinces. He requested that civic education be a department of the Commission and that Commissioners divide themselves into eight groups so that during the process there is a Commissioner in every group to supervise the process. He said he would like to see a transition government of national unity if the Commission does not complete its work.

Balosi Mulala of Nyamira said constituency forums should be established by those groups who are conducting civic education at constituency level. Documentation centres should all over the country but have one main documentation centre at constituency level. He said civic education should be done at community level by already existing institutions in the local area and that these institutions should be provided with the curriculum.

Beatrice Muita from Kuria said provincial administrators should first of all be sensitized before civic education begins so that they do not harass the people when they are conducting civic education. She said civic education should be done without political favouritism and it should be done by local people who should be trained.

She said MP's should have nothing to do with documentation centres because they will distribute documents to their supporters and said they should be within churches, CBO's and political parties, but not particular MP's.

Marwa of Kuria said civic education should be done by local but that there should be a syllabus. He said constituency forums should be identified by local people but MP's should not be involved even though they are leaders in different constituencies. He said if the Commission does not complete its work on time, elections should go ahead but Parliament should not be extended.

Gregory Nchama of Kuria said a people driven constitution should follow the majority who will be found at the grassroots. He said civic education should be done by existing NGO's, local churches, CBO's and any other local institution that is able to do this. He said people should express their views without intimidation or suspicion.

He said documentation centres should be all over, in provincial headquarters, in towns, divisional and locational headquarters so that there can be a centre close to everybody in every area.

He said some divisions are very far from constituency centres and documentation centres should be near the people. He suggested that constituency forums should be called divisional forums.

Kennedy Ateto of Suba said civic education should be at grassroots level. The government should be given the work of

mobilising wananchi for this purpose. He said people driven means the people and not the people's representatives. He said information should be disseminated through institutions like churches and mosques and through chiefs.

Philip Wanjare of Suba said civic education should first be disseminated to Members of Parliament and provincial administrators so that they know how to approach the people and stop causing divisions among the people. He said people should treat each other as brothers and sisters and be together. He said there should be consideration so that wananchi can have the Kenya they want.

Erastus Nyamunyi said before civic education people should understand the old constitution. Civic education should start at sub-location level. Documentation centres should be established at divisional level so that every mwananchi can have access. On constituency forums should be within division centres.

Councillor Joshua Ogado, Mayor of Homa Bay said during the Poverty Eradication Commission, the Commission came up with a very good people driven document and he hoped the Commission would do the same. He asked the Commission to produce a curriculum covering everyone from the grassroots to the top. Trainers should be trained to conduct this education. He suggested that documentation centres should be at grassroots level so that collection, collation and dissemination of information will be efficient.

Joyce Opere of Maendeleo ya Wanawake, Homa Bay said civic education should be conducted in all districts at grassroots level so that everyone can understand it. She said documentation centres should be at divisional level by CBO's, NGO's, administrators and religious groups.

Kennedy Ouma of Homa Bay said civic education should embrace everybody and provincial administrators should be the first people to be given the education, then MP's, Armed Forces, police, doctors, teachers and all avenues should be used to reach the people. If this education only focuses on the common man, very important people will be left out.

He said documentation centres should not be confined to administrative boundaries like divisions and locations and that institutions on the ground should be used. He said constituency forums should be at divisional level.

He said the Commission should not work under pressure to keep to the time frame, that it should be independent and take enough time to finish the work.

Mbori (?) former MP for Rachuonyo said first of all the people have to understand the old constitution. He paid tribute to the authors of the present constitution which has guided the country for nearly 40 years peacefully.

He said civic education should begin with the family, parents and children through media, radio, TV and then to location level.

He said Members of Parliament should attend forums but not take part because they will use that opportunity for campaigning.

Documentation centres should begin from sub-location level commensurate with voting centres at district level and that the

Commission should distribute enough material to the centres.

Susan Otieno of Rachuonyo said all documentation should be translated into local languages that can be understood because even some Luos do not understand the Luo language. She said the language should be simplified so that even the youth can understand it. She said inmates should not be forgotten in the exercise, children in remand homes and schools should include orphanages and institutions giving informal education.

Edward Litolanga (?) of Rachuonyo said he thought the meeting would go direct to the constitution. He said everybody in Kenya is educated and if the Commission wasted too much time on civic education it means that Parliament will be extended. He said there is no provision for civic education in the present constitution and it was just written quickly. He said he preferred majimbo government. He said constituency forums should be in chief's centres, churches and should be in all local languages but that too much time should not be spent on civic education.

Anna Miani of Maendeleo ya Wanawake, Migori, said civic education should be conducted in every district so that everybody knows about the constitution review. She said people at the grassroots must understand the constitution. She said this should be done by local people at sub-location level and it should be done through churches, chief's barazas and MP's must also be taught civic education. She provincial administration are sometimes a bother to the wananchi and they should also be educated.

Omar Hussein of Muslim Community, Migori said it is not easy to teach civic education because most people do not understand the constitution. He said this should be done in every district and every division and every sub-location in the local language so that people at grassroots level can understand. He said MP's should not be used in this exercise. He said Parliament should not be extended even if the Commission does not complete its work

Rev. Michael Otieno Magogo of Migori civic education should start with the DC, then chief, then the clan and it should be done through the churches but that the preacher should be well trained to conduct this education.

Com. Maranga invited professional groups to give their views very briefly.

Orora, an advocate with the High Court of Kenya, said he was not mandated by the LSK to make a statement as they would make a comprehensive statement later. He said lawyers should be used at district level and he gave an assurance that if people are harassed or arrested because of giving their views, the lawyers are ready to give free legal services.

Mogeni Daniel of Chamber of Commerce said he had come prepared to tackle constitution review matters but said documentation centres should be at divisional level so that time is not wasted. He said all stakeholders should be involved in

constituency forums with coordinators from the Commission. He said all organisations in Nyamira are willing and waiting to help. He also hoped that the Commission succeeds in its work.

Prof. Robert Njalango Otieno, UoN, thanked Prof. Ghai for bringing the two statutory commissions together. He said the Commission should have circulated the documents available so that people can study them when they go home and civic education can start right away. He said the Commission should use all modern methods available to reach all Kenyans even those who are living abroad. On civic education, he said the process of learning starts with the information available and most people do not know what the constitution is. He said district coordinators should be appointed straight away. He said NGO's and provincial administration can act as facilitators but should not be involved in actual dissemination of civic education. He said Kenyans think the constitution is very threatening but it is an orderly means by which people agree together to preserve life and this is what is needed in civic education, He therefore said this should start at the grassroots by retired people in sub-location. As for timeframe he said the Commission should guide the people on what to do if they do not finish their work on time.

Prof. Ogot of Maseno University said civic education should be approached in an open manner and that documentation centres should in established institutions. He said Maseno University has capacity to documentation purposes and they also have facilities to translate documents into as many languages as possible.

Sam Asaka(?) of Egerton, Kisii Campus said the constitution should be people-authored and the issue should not be who is doing civic education but making the people know that the constitution belongs to them. He said the people should own the new constitution so that if in the future there are misdemeanors come up, people will stand against them. He said the students and the youth would like to part of the process and the Commission should find a way of incorporating them as the constitution will affect them more in the future.

Com. Maranga thanked the people for participating and invited Prof. Ghai to respond to the points that had been raised.

Prof. Ghai said that the meeting has been extraordinarily useful and that the people have been extremely focused on the issues raised by the Commission. He said the Commission will be back to hear their views on the constitution and thanked them for their discipline. He said the Commission will make decisions on the basis of what it has heard from the participants.

He said the purpose of the meeting is really to hear from the people how to conduct civic education. He said as a Commission, it cannot bar any group from participating in civic education because the constitution allows everyone freedom of expression. He said the Commission is interested in working with a number of organisations on the basis of a common curriculum, a code of conduct and certain approaches but it cannot bar anyone from participating.

Prof. Ghai also said the Commission has been talking to provincial administration with a view to providing them with basic ideas on civic education and values to be included and also sensitise them to the need for tolerance and not breaking up meetings. He said the Act requires every one including the government, parties, the Commission, all organs of the review process and all

citizens to let the process be conducted in peace without any disturbances and the police are under an obligation to protect those organise meetings. He said he will take every opportunity to remind the police and administration of the code of conduct with is part of the review process.

He said the civic education has become a divisive topic in the society for some reason and said this is the only country that this subject has caused controversy. He said although civic education plays an important role in the review process, its importance should not be exaggerated and used to divide the people further. He asked the people to trust the Commission in the proposal that it will make for a civic education curriculum.

He made a distinction on civic education and consultation and said people of Kenya are aware of the weaknesses and strengths of the present constitution and said during the constituency visits people should speak from their hearts and talk freely in simple language. He said even trivial problems in every day life are important and should be brought to the Commission simply.

He said the Commission will circulating different ideas in the community in meetings and through consultation papers.

He again thanked the people for their ideas.

Com. Maranga reminded the people that the next meeting would be at Kenyatta Grounds at 2.30 p.m.

KENYATTA GROUNDS - 2.30 P.M.

The meeting was opened with Christian (Com. Pastor Ayonga) and Muslim prayers(Com. Lethome).

Com. Hon. Phoebe Asiyo(MC) asked Commissioners to introduce themselves.

PRESENT:

Prof. Yash Pal Ghai	-	Chairperson
Prof. A. Idha Salim	-	1 st Vice-Chairperson
Mrs. Abida Ali-Aroni	-	Vice-Chairperson
Prof. H.W.O. Okoth-Ogendo	-	“
Ms. Nancy Baraza	-	“
Mr. Ahamed I. Hassan	-	“
Dr. M.A. Swazuri	-	“
Ms. Kavetsa Adagala	-	“
Hon. Mrs. Phoebe Asiyo	-	“
Mr. Domiziano Ratanya	-	“
Ms. Salome Wairimu Muigai	-	“
Mr. Isaac Lenaola	-	“
Hon. Amos Wako	-	Ex-Officio
Pastor Zablon Ayonga	-	Commissioner
Dr. Mosonik arap Korir	-	“
Mr. John Mutakha Kangu	-	“
Dr. Abdirizak Arale Nunow	-	“
Mr. Abubakar Zein Abubakar	-	“
Mr. Ibrahim Lethome Asman	-	“
Mr. Riunga Raiji	-	“

Bishop Kariuki Njoroge	-	“
Mr. Paul M. Wambua	-	“
Dr. Charles Maranga	-	“
Mrs. Alice Yano	-	“
Mr. Arthur Okoth-Owiro	-	Commission Secretary

ABSENT WITH APOLOGY:

Dr. Oki Ooko Ombaka	-	Vice-Chairperson
Dr. Wanjiku Kabira	-	Commissioner
Mr. Githu Muigai	-	“
Mr. Keriako Tobiko	-	“

There was a problem with the sound system and Kenneth Ogana recited a poem while it was being fixed.

Com. Phoebe Asiyo invited Prof. Ghai to make opening remarks.

Prof. Ghai said the Commission had come to tell the people about its work and get their opinions and guidance on how to fulfil its work. He said the Commission would return to Kisumu and visit all constituencies to receive the people’s recommendations on the new constitution. He said the Commission had a very good meeting in the morning with people from all districts and organisations which he said was the best meeting the Commission has had so far. He said in the morning he had described the responsibilities of the Commission and the whole review process in which the Commission is only a part. He had said how decisions would be made by a constitutional conference with all Members of Parliament, representatives from each district, representatives of religious groups, professional bodies, political parties, women’s groups, youth, disabled, NGO’s and the Commissioners themselves. He said the decisions would be on the basis that the people had made. He said the people’s responsibility in this process is heavier than that of the Commission because it is the people who will tell the Commissions what recommendations it should make and asked the people to participate in the process as much as they can through civic education, discussions among themselves and so on. He said if the constitutional conference does not reach a consensus, the people will make the decision through a referendum.

He invited Com. Abida Ali-Aroni to translate his morning remarks in Kiswahili and thanked the people again for coming especially as they had to sit in the hot sun.

Com. Abida Ali-Aroni said the Commission was happy to see all the people who had attended the meeting and that this was a source of encouragement in its work which was not easy. She said this was the second province that the Commission had visited.

She said the Commission was made up 29 people and she assured the people that the Commission was there to serve them as the people of Kenya. She said the Commission had been mandated to seek views from the people to enable it to draft a constitution. She said the present constitution was written at Lancaster House more than 39 years ago and did not take into consideration the wishes of the people of Kenya. She said this was an important moment when the people can tell the Commission the constitution they would like to have. The constitution is the instrument that decides how the government should

serve the public and therefore the public have an important role to play. She said the Commission is operating under an Act of Parliament which requires it to hold constituency forums after which there will be a national constituency forum with about 500 people from all over the country. The next stage will be a referendum if there is no consensus at the national conference. If there is consensus at the national forum, the Commission will forward its report to Parliament for enactment but if there is no consensus the people will be asked to go to the polls.

She said the purpose of the meeting was to get views from the people on how to conduct civic education. After considering all the views, the Commission will visit every constituency to hear views from groups of people e.g. women's groups, religious organisations, youth organisations, professional bodies, etc on the kind of constitution they would like to see. She said the Commission will then write a draft report which will be given to the people to study for a period of two months before holding a national constitution conference.

On civic education, she said the Commission would like to hear views on whether to use churches, mosques, established institutions or any other groups. She said the Commission would like to complete its work before the next elections. The Act has allowed 24 months for the Commission to complete its work and it would like to do this. If the work is not completed within this time, the Commission would like to know what the people would like it to do, either to request for extension, to extend the life of Parliament or to hold elections and continue with its work after the elections. She said that although Kenyans come from different tribes, different religious groups, different cultures, it is important that they all live together peacefully as citizens of Kenya.

Rev. Owour of Yala Parish, Kisumu, said civic education begins at home with the family, schools, working places and on the streets. He said there have been many Commissions and wondered if the Review Commission will end up like that. He said documentation centres should be in schools, churches and shops where people can collect documents. He said the present constitution does allow a woman to become a president and this should be included in the new constitution.

Com. Phoebe Asiyo corrected Rev. Owour that the present constitution does stop women from vying for any seat.

Leo Onyango, a teacher representing Bluecross Kenya said that in order for the Commission to produce a democratic constitution, it has to answer a number of questions: first, what powers does the Commission have? Secondly, who gave the Constitution these powers? Thirdly, on whose behalf is the Commission exercising these powers? Fourthly, who is the Commission loyal to? Finally, how can the people get rid of the Commission. He said the answers to these five questions will determine the kind of constitution that the people will get.

Mohamed Aslam Khan welcomed the Commission to Kisumu. He said the Commission should recognise Muslims who area about one-third of the population of Kenya. He said the Kadhi's Courts should be empowered to allow integration with Christina brothers and sisters. He said civic education should start from the grassroots. He said constituency forums should be at divisional level and in the very large locations, there should be centres for conducting this education. He said culture should

be preserved.

Nancy Monica Otieno of Kisumu Paralegal said civic education should be conducted in the rural areas by well trained local people especially unemployed youth and women who are the backbone of every community. Provincial administration and Parliamentarians should also be given civic education. Documentation centres should be in villages. NGO's and churches who have finance and personnel should be allowed to conduct civic education. She said civic education should be coordinated by the government together with church officials and NGO's.

James Onyango said civic education should be under the Commission through district coordinators and locational workers who should sign code of conduct forms and undergo training. Students from local universities should also be trained to conduct civic education. All education should be in the local language.

Oyola Arua representing poor people said there are a lot of troubles in Kenya because people are using a white man's constitution whereas an African's problems are different from a white man's problems. He said Kenyans know what they want and they should not waste time with civic education. He said the problem Kenya has is to change the constitution and not to remove the government of the day from power or hold elections. A constitution to do these things has to be prepared first and the people know what they want and they should say what it is that they want.

Collins Obera for the disabled said people with disabilities have been neglected in employment as they are not recognised. He appealed to the Chairperson to ensure that in civic education and in the new constitution, the disabled are recognised because they are also citizens of Kenya.

Gideon Kamau of Moi University said all suspicions in this country must be erased and the Commission given a chance. He said civic education should be done from the grassroots by people who are trained and have knowledge of the constitution and that graduates are qualified to do this work. (Shouting)

Nelson Njuma of Chamber of Commerce, Bondo, requested that when the Commission visits constituencies, the Chamber of Commerce should be included in its secretariat at sub-locational and locational level. He said the staff will mobilise the people and make sure no one is left behind.

Patricia Adhiambo of Maseno University said there are NGO's and CBO's dealing with civic education and these should be harmonised and include all stakeholders in the programme. Their curriculum should be strengthened, their capacity expanded to include training of trainers and also use the youth in polytechnics and universities to participate in the process from the grassroots level. She said Maseno University has facilities for documentation but she wanted to know where the Commission wants these documentation centres to be. Infrastructure in the field by which documents will be monitored should

be considered. She said these centres should be at sub-location and location level and run in a non-partisan way. She said all stakeholders like youth groups, women groups and religious organisations should be represent in constituency forums. Braille facilities should be provided and disabled should be well informed.

Christopher Ojienda representing elders and farmers said elders are established people in the community, they are knowledgeable and they are stakeholders in this exercise. He said in every constituency, civic education will differ because the capacities are different and the Commission should do a survey to determine viable communication centres in each constituency.

Cultural systems of governments should be preserved.

Alex Wandegu for the common man said the young people are suffering because if they are found in towns they are arrested. If one drives without a licence he is arrested. He said very few people in Kenya have ID cards and if one does not have a godfather one cannot get an ID. He said that the common man will conduct civic education free of charge. He said the money that is used to buy big cars can help manambas and the common man and the constitution of Kenya should guarantee the rights of the common man.

Larry Onyango, a school leaver, said in civic education everybody should be given a chance and not only graduates. If someone says they are graduates and therefore the best it means they despise their grandmothers who maybe never went to school. He in the process, it is important to get the views of the old people, the middle aged people and even the youth. He said if the youth are given the chance they can express themselves. The people doing civic education should be willing to do this work free of charge. He said civic education should also be done through the media.

Stephen Msiga, a fisherman and Secretary, Nyando Chamber of Commerce, said fishermen have been trodden on. He said although they produce a lot of fish they do not get any value in return. He said the constitution should address the fishermen. He said the Commission should put a syllabus in place for civic education and coordinate with the Ministry of Education for high schools and universities to be the sponsors of this programme. He said the unemployed people should be trained to conduct civic education. NGO's, churches and mosques should also be included. He said if the Commission does not complete its work on time, there should be minimum changes to review the power of the president so that there can be free and fair elections. He said although the powers of the president will not be taken away, he should be asked him the five questions asked before. He said electoral laws should be changed to provide for a coalition government, a prime minister. He said the Kenya constitution should be produced in local languages.

James Awinyo, a pensioner, said Kenyans think about the constitution as something very threatening but that it is an orderly means where people agree to preserve their lives and this orderliness is what is needed in civic education. He said it should be done at the grassroots and conducted by retired people.

Paul Ouko of Kisumu said if Prof. Yash Pal Ghai makes a good constitution he will receive the blessings of the people of Nyanza but if the Commission ended up like the other commissions, the people will curse him and the Commissioners.

George Oguta, senior Kisumu resident, said the constitution of Kenya keeps changing. He said civic education should not be looked at like an income generating exercise. He said civic education should be done by the local people at the grassroots level. He said the people in Nairobi call the local people “mwananchi wa kawaida” and see themselves as governors and not as ordinary wananchi and yet the bill of rights says someone in Kisumu has a right to be a human being and therefore civic education providers should not be brought from Nairobi.

A lady speaker said civic education should be done by local NGO’s and members of Political Women Caucus.

A speaker on behalf of Supreme Council said the new constitution should respect every mwananchi. He said civic education should not be done by people who are looking for jobs but by people who are able and it should be discussed by members of the family and everyone should give their views. He said the constitution should be ready by September next year. He said at Muslim Council they have structures on national, provincial, districts and in mosques they have madrasa and these can be used as documentation centres. Constituency forums should be at locational levels.

Joshua Odhiambo Nyang’ori of Kisumu Polytechnic said civic education should not be a formal process conducted in seminars but it should be carried out where the people are. For example, civic education among fishermen should be done by one or two trained fishermen. It should not be controlled by international and national NGO’s but by organisations that exist at the grassroots level. He said documentation centres should be at constituency level but have offices at locational and village level. The material should include the constitution itself and an analysis of the issues that have been talked about concerning the constitution. There should be curriculum of civic education and constitutions of other democratic states. He said there should be hurry about finishing work by next year because the people want a document that will last Kenya 100 years. He said if necessary elections should be delayed but the decision should be made through a referendum. He said the media are interfering with the process. He said some of the Commissioners have been an embarrassment to the country and if there is a problem, it should be discussed in private and not reported. He said if donor agencies give money for a project then they dictate the results of the final document and the Commission should assure Kenyans that no views from the international community will be in the constitution. He also asked the Commission to set up a website so that people can communicate with it and that all information from the whole country should be displayed on the website to facilitate debate. He also said the information given by KBC is biased and that the government should register all the broadcasting stations that have applied so that they can also broadcast and people will be able to compare views.

Albert Ojojo of Kisumu asked the Commission to avail to Kenyans the old constitution so that they will know what to change. He gave an example that if Mr. Wako was in Kisumu at night he would be arrested but other people would be arrested.

Mr. Ochieng of Nyahera said civic education should be done by secondary school leavers who are unemployed. He said these people should be trained to do this work at district level and that this should be done in churches, schools, media, newspapers and among women's groups but not in hospitals where people are dying.

Esther Akinyi of Rachuonyo said civic education should be from the grassroots by the youth, CBO's, PC's and so on. She said documentation centres should be run by youth, NGO's and CBO's so that they can train the local people.

Tom Mboya Ogolla said civic education should go down to the people in the grassroots. He said this should be done by Kenyans. He said documentation centres should be at secondary schools, primary schools that can be availed for this purpose. He said some constituencies are very large and constituency forums should be at division level. He said since most people at the venue will not be alive in 15-20 years, the constitution should be made to cater for the younger generation.

Luvande of Ugenya said civic education can be done by anyone in Kenya.

Sarah Mbewa of Kisumu Gender and Development Centre said civic education should be done at village level and that women should avail themselves for this education so that they will know how to choose the right people. She said there are many institutions in Nyanza Province that can be used at documentation centres but the point to be considered is availability and accessibility.

John Bruno of Nyalenda Slums said civic education is compulsory. He said no one knows where Nyalenda is, there are no roads or anything but with civic education all men and women in that area will know that the constitution must be reviewed. He said many slum dwellers do not know what is happening in Kenya but through civic education people will know why they must have a unitary government.

A speaker from Kisumu Polytechnic said many local areas do not have NGO's. He said in civic education, the youth should be involved whether they are school leavers, college leavers or graduates instead NGO's or those who masquerade as NGO's. He said documentation centres should be in places like Kisumu Library, Kisumu Polytechnic and there are places in other centres, He said civic education should be done at divisional level by local people in the local language.

Vitalis Owour said in the constitution, street children should be considered. He said at the moment only children of the rich go to school and the children of the poor cannot go to school.

Com. Phoebe Asiyu said the people will have a lot of time to present their views when the Commission visits constituencies. He invited Prof. Ghai to respond to some of the issues that had been raised.

Prof. Ghai thanked everyone for their comments and suggestions and for staying for so many hours. He said since many people have said they do not understand the present constitution the Commission is preparing a summary of the present constitution in simple language which will be translated into Kiswahili. He said the Commission will approach Prof. Ogot on his offer that Maseno University has an institute of African studies that would be willing to help to see if this summary can be translated into a number of languages. He said the Commission will try to get this document out some times next month and ensure that copies are sent to major organisations all over the country.

In connection with the suggestion that local organisations can be used including the youth and graduates, the Commission will consider a programme of training for those groups that want to provide civic education. Although there are no concrete plans, this was an item on the Agenda. He said the Commission believes that as far as possible, it should use local based organisations, people who live in the community and speak the language.

He said that from the many comments made, he was convinced that the constitution review to be meaningful has to be concerned with poverty. He said 57% Kenyans live in poverty according to government statistics, a lot of children do not go to school and that this problem has to be tackled. He said the Act under which the Commission is operating requires it to consider ways in which the basic needs of Kenyans, food, shelter, education, water, are provided and the Commission will see how to deal with that in the constitution. He said in Kenya there are some of the richest people in the world as well as the poorest and that this cannot continue and there has to be a better distribution of resources. He said there must be opportunities and other activities because there is a lot of energy in the people of Kenya and there must be a way of releasing it constructively. He said this means reorganising economic and social policies which might be too great a task for the review of the constitution. He said when people talk of review they are thinking about structures of government but that in today's world, people have to look at constitutions as instruments to deal with the wider questions and problems which is not easy. He said the people have to come to the Commission with concrete suggestions as to how the constitution can provide for this.

Some people wondered what guarantee there is that the constitution will be operated by good people or that it will be implemented. He said when people are involved in every stage of constitution making is a good thing because the more the people know about the constitution the more they know how to use the mechanisms in it for the protection of their rights.

He said the Commission will produce a number of discussion papers about its terms of reference which will provide a guide to the analysis of the present constitution and suggestions as to how it can be changed. He said the people should find an opportunity to discuss these papers before the Commission returns so that there will be basis for a dialogue. He reassured the people that the Commission will maintain its independence and reminded them that they have to respect differences and listen to each other. He also said the Commission will use the resources available to it very economically and that the people should be a watch dog and keep reminding the Commission where they go wrong.

He said the Commission has been authorised by Parliament and the President and it was accountable to the people of this country because it has to listen to the people, make its report on the people's recommendations. He said this report will not be sent to Parliament or to the President but that it will be published for the people of Kenya and released to the public at the same time as it is released to Parliament or to the President. He said the people will have a chance to comment on the report and

those comments will go to the constitutional conference and if there is no agreement the people will decide.

Com. Wako said that in 1997 the Vagrancy Act was abolished and that if someone is with him they will not be arrested. He said Kenyans have a good opportunity to reshape their future and that he was pleased with the good response received in Kisumu and that their recommendations will be reflected in the new constitution. He said the Commission has been mandated to ensure that they collect the views of all Kenyans and there have been recommendations that documentation centres should even be at locational level and in divisions. He said this is very positive. He said the Commission after collecting view is duty bound to accurately reflect those views in the new constitution and it is the people's responsibility to make sure that they give the Commission that responsibility. He said the Commissioners were the people's servants to reflect what they want in the new constitution that will serve children and grandchildren up to the fourth and fifth generation.

The meeting closed at 5.30 p.m.

